

GENERAL LAWS
OF THE
STATE OF IDAHO



PASSED AND PUBLISHED BY
THE FIRST EXTRAORDINARY SESSION OF THE
SIXTY-FIFTH IDAHO LEGISLATURE

Convened August 24, 2020
Adjourned August 26, 2020

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

Chairman Lakey
Senate Judiciary & Rules
Chairman Chaney
House Judiciary, Rules & Administration

PROCLAMATION

WHEREAS, the SARS-CoV-2 virus that originated in China and causes the disease COVID-19 has caused untold misery and devastation throughout the world, including in the United States and in Idaho; and

WHEREAS, the health and safety of all Idahoans is the greatest priority of our state and its leaders; and

WHEREAS, citizen participation in our elections by voting is essential to our republic; and

WHEREAS, the White House has recently reported that several Idaho counties are in the "Red Zone" for COVID-19 due to a high rate of new cases per 100,000 and a test positivity rate above 10 percent, including some of Idaho's most populous counties; and

WHEREAS, the COVID-19 pandemic has significantly decreased the availability of possible polling locations and willingness of poll workers to serve on Election Day; and

WHEREAS, I am informed by the Secretary of State that on average approximately 4,000 poll workers help carry out the general election and that the median age of those poll workers is 70 years old; and

WHEREAS, I am informed by the Secretary of State that over half of those who customarily serve as poll workers do not plan to do so for the 2020 general election; and

WHEREAS, I am informed by the Secretary of State that an unprecedented number of Idahoans will vote absentee in this year's general election, which will require those ballots to be processed and counted by the county clerks' offices while simultaneously preparing for and operate polling places for in person voting on Election Day; and

WHEREAS, there is an urgent need to address and ensure the privacy, integrity and security of Idaho's election process; and

WHEREAS, the existence of COVID-19 in Idaho and in the United States has significantly harmed Idaho's economy, caused the loss of many Idaho jobs, and caused our schools, universities, and other institutions to temporarily close; and

WHEREAS, the United States and the State of Idaho have enacted numerous laws and programs to help workers, professional educators, businesses, health care workers, patients, and citizens respond to and recover from the negative impacts caused by COVID-19; and

WHEREAS, safely reopening Idaho's economy is crucial to Idaho's recovery from the COVID-19 pandemic and will enable Idaho's workers to get back to work and Idaho's students to get back to school; and

WHEREAS, the COVID-19 pandemic has created unprecedented uncertainty as to liability due to the existence and spread of COVID-19 in Idaho; and

WHEREAS, small and large businesses, schools, colleges and universities, and religious, philanthropic and other non-profit institutions confront the risk of litigation accusing them of negligently exposing employees, customers, students, and worshipers to coronavirus. Health care workers face the threat of lawsuits arising from their efforts to fight the virus; and

WHEREAS, establishing temporary and consistent standards to govern liability for certain tort claims related to COVID-19 will help Idaho's economy recover in a safe and prudent manner and will encourage planning, care,

and appropriate risk management by small and large businesses, schools, colleges and universities, religious, philanthropic and other non-profit institutions, and health care providers; and

WHEREAS, the standards set by this special session must be carefully tailored to the crisis caused by the COVID-19 pandemic and extend no further than necessary to meet this unique crisis. Those who do not act in good faith to respond safely to the COVID-19 pandemic should not be immune from liability; and

WHEREAS, article IV, section 9 of the Constitution of the State of Idaho empowers the Governor, on extraordinary occasions, to convene the Legislature by proclamation; and

WHEREAS, the Idaho Legislature has requested a special session to address issues caused by the COVID-19 pandemic that require immediate action; and

WHEREAS, I have determined that the existence and spread of COVID-19 in Idaho is such an extraordinary occasion that necessitates convening a special session of the Idaho Legislature; and

WHEREAS, the Idaho Legislature formed working groups that have studied those issues caused by the COVID-19 pandemic and recommended specific bills to be considered at a special session of the Idaho Legislature; and

WHEREAS, article III, section 9 of the Constitution of the State of Idaho gives each house of the Legislature the authority to identify and implement the safety protocols, including capacity limits, it deems necessary to conduct its proceedings within its respective chambers, offices, and committee rooms.

NOW, THEREFORE, I, Brad Little, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and laws of this state, do by this Proclamation convene the 65th Idaho Legislature in Extraordinary Session in the legislative chambers at the Capitol in Boise City, Ada County, Idaho, at the hour of 10:00 A.M. on the 24th day of August, 2020 for the following enumerated purpose and no other:

To consider the passage of RS28046 regarding absentee voting during the pandemic, RS28045 regarding in person polling locations during the pandemic, and RS28049 regarding civil liability, copies of which are attached hereto.

The Extraordinary Session of the Legislature convened by this Proclamation shall have no power to legislate on any subjects other than those specified herein.

I HEREBY DIRECT AND REQUIRE that a copy of this proclamation be delivered to the Lieutenant Governor, to each of the members of the 65th Idaho Legislature and to the Constitutional Officers of Idaho at the earliest practicable time.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 19th day of August in the year of our Lord two thousand and twenty.

/s/ Brad Little
GOVERNOR OF THE STATE OF IDAHO

/s/ Lawrence Denney
SECRETARY OF STATE

CHAPTER 1
(S.B. No. 1001, As Amended)

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-1003, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE ISSUANCE OF ABSENTEE BALLOTS; AMENDING SECTION 34-1007, IDAHO CODE, TO REVISE PROVISIONS REGARDING COUNTING ABSENTEE BALLOTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 34-1003, Idaho Code, be, and the same is hereby amended to read as follows:

34-1003. ISSUANCE OF ABSENTEE BALLOT. (1) Upon receipt of an application for an absent elector's ballot within the proper time, the county clerk receiving it shall examine the records of the county clerk's office to ascertain whether or not such applicant is registered and lawfully entitled to vote as requested and, if found to be so, the elector shall arrange for the applicant to vote by absent elector's ballot.

(2) In the case of requests for primary ballots:

(a) Except as provided in paragraph (b) of this subsection, an elector who has designated a political party affiliation shall receive a primary ballot for that political party.

(b) An elector who has designated a political party affiliation pursuant to section 34-404, Idaho Code, may receive the primary election ballot of a political party other than the political party such elector is affiliated with if such other political party has provided notification to the secretary of state that identifies the political party such elector is affiliated with, as provided for in section 34-904A(2)(b), Idaho Code.

(c) An "unaffiliated" elector shall receive the primary ballot for the political party which the elector designated in the elector's application for an absentee ballot pursuant to section 34-1002, Idaho Code. Provided however, that a political party's ballot shall not be provided to an "unaffiliated" elector where that political party has not elected to allow "unaffiliated" electors to vote in such party's primary election pursuant to section 34-904A, Idaho Code.

(d) If an "unaffiliated" elector does not indicate a choice of political party's primary ballot, the elector shall receive a nonpartisan ballot.

(3) The absentee ballot may be delivered to the absent elector in the office of the county clerk, by postage prepaid mail or by other appropriate means, including use of a facsimile machine or other electronic transmission. Validly requested absentee ballots for candidates for federal office, where the request is received at least forty-five (45) days before an election, shall be sent ~~not~~ no later than forty-five (45) days before that election to all electors who are entitled to vote by absentee ballot.

(4) Pursuant to the uniformed and overseas citizens absentee voting act (UOCAVA, 52 U.S.C. 20301 et seq., as amended) the secretary of state shall establish procedures for the transmission of blank absentee ballots by mail and by electronic transmission for all electors who are entitled to vote by absentee ballot under the uniformed and overseas citizens absentee voting act, and by which such electors may designate whether the elector prefers the transmission of such ballots by mail or electronically. If no preference is stated, the ballots shall be transmitted by mail. The secretary of state shall establish procedures for transmitting such ballots in a manner that shall protect the security and integrity of such ballots and the privacy of the elector throughout the process of transmission.

(5) A political party may supply a witness to accompany the clerk in the personal delivery of an absentee ballot. If the political party desires to supply a witness, it shall be the duty of the political party to supply the names of such witnesses to the clerk no later than forty-six (46) days prior to the election. The clerk shall notify such witnesses of the date and approximate hour the clerk or deputy clerk intends to deliver the ballot.

(6) A candidate for public office or a spouse of a candidate for public office shall not be a witness in the personal delivery of absentee ballots.

(7) An elector physically unable to mark such elector's own ballot may receive assistance in marking such ballot from the officer delivering same or an available person of the elector's own choosing. In the event the election officer is requested to render assistance in marking an absent elector's ballot, the officer shall ascertain the desires of the elector and shall vote the applicant's ballot accordingly. When such ballot is marked by an election officer, the witnesses on hand shall be allowed to observe such marking. No county clerk, deputy, or other person assisting a disabled voter shall attempt to influence the vote of such elector in any manner.

(8) Notwithstanding any other provision of this section, for any election that takes place prior to December 31, 2020, the following provisions shall apply:

(a) Validly requested absentee ballots by uniformed and overseas voters, pursuant to the uniformed and overseas citizens absentee voting act, where the request is received at least forty-five (45) days before an election, shall be sent no later than forty-five (45) days before that election; and

(b) For any other validly requested absentee ballots that are received at least thirty (30) days before an election by electors who are entitled to vote by absentee ballot and are not within the provisions of paragraph (a) of this subsection, such ballots shall be sent no later than thirty (30) days before the election.

SECTION 2. That Section 34-1007, Idaho Code, be, and the same is hereby amended to read as follows:

34-1007. TRANSMISSION OF COUNTING ABSENTEE BALLOTS TO POLLS. (1) On In those counties that count ballots at the polls, upon receipt of such absent elector's ballot or ballots, the officer receiving them shall forthwith enclose the same, unopened in a carrier envelope endorsed with the name and official title of such officer and the words: "absent electors' ballot to be opened only at the polls." He shall hold the same until the delivery of the official ballots to the judges of election of the precinct in which the elector resides and shall deliver the ballot or ballots to the judges with such official ballots.

(2) In those counties which that count ballots at a central location, absentee ballots that are received may, in the discretion of the county clerk, be retained in a secure place in the clerk's office and such ballots shall be added to the precinct returns at the time of ballot tabulation. Provided, however, for any election that takes place prior to December 31,

2020, absentee ballots may be opened and scanned beginning seven (7) days prior to election day. If the absentee ballots are opened prior to election day, the ballots shall be securely maintained in a nonproprietary electronic access-controlled room under twenty-four (24) hour nonproprietary video surveillance that is livestreamed to the public and which video must be archived for at least ninety (90) days following the election. The ballots shall be boxed and secured in the same access-controlled room each day after being opened or scanned. A minimum of two (2) election officials must be present whenever absentee ballots are accessed. No results shall be tabulated for absentee ballots until the polls close on the day of the election held prior to December 31, 2020.

(3) The clerk shall deliver to the polls a list of those absentee ballots received to record in the official poll book that the elector has voted.

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 August 27, 2020

CHAPTER 2
(H.B. No. 6)

AN ACT

RELATING TO THE CORONAVIRUS LIMITED IMMUNITY ACT; AMENDING TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 34, TITLE 6, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE LIMITED IMMUNITY FROM CERTAIN LIABILITY, TO PROVIDE EXCEPTIONS, AND TO PROVIDE APPLICABILITY; DECLARING AN EMERGENCY; AND PROVIDING A SUNSET DATE.

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

SECTION 1. That Title 6, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 34, Title 6, Idaho Code, and to read as follows:

CHAPTER 34
CORONAVIRUS LIMITED IMMUNITY ACT

6-3401. SHORT TITLE. This chapter shall be known and may be cited as the "Coronavirus Limited Immunity Act."

6-3402. DEFINITIONS. As used in this chapter:

(1) "Coronavirus" means:

- (a) Severe acute respiratory syndrome coronavirus 2;
- (b) The disease caused by severe acute respiratory syndrome coronavirus 2; or
- (c) Any subsequently identified mutation, modification, or strain of coronavirus if the transmission of said virus among humans rises to the level of an epidemic or pandemic and qualifies for an emergency declaration under applicable Idaho law.

(2) "Person" means any entity recognized in this state and shall include but not be limited to an individual, corporation, limited liability company, partnership, trust, association, church or religious organization, city, county, school district, college, university or other institution of higher education, or other unit of local government. However, "person" shall not include any Idaho public health district; the

federal government or any of its agencies; the state of Idaho or any of its agencies, except colleges, universities, and other institutions of higher education; nor any foreign government or foreign jurisdiction.

6-3403. LIMITED IMMUNITY FROM LIABILITY. (1) Subject to the other provisions of this section, a person is immune from civil liability for damages or an injury resulting from exposure of an individual to coronavirus.

(2) Immunity as described in this section shall not apply to acts or omissions that constitute an intentional tort or willful or reckless misconduct as defined in section 6-1601, Idaho Code.

(3) Nothing in this chapter shall be construed to modify the application of title 72, Idaho Code, worker's compensation and related laws of the industrial commission.

(4) The immunity provided in this section is in addition to any other immunity protection that may apply in state or federal law.

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

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, 2021.

Approved August 27, 2020

CHAPTER 3
(H.B. No. 1)

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-1006, IDAHO CODE, TO PROVIDE FOR THE RIGHT OF CERTAIN ELECTORS TO VOTE IN PERSON NOTWITHSTANDING CERTAIN CONDITIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 34-1006, Idaho Code, be, and the same is hereby amended to read as follows:

34-1006. COUNTY CLERKS SHALL PROVIDE ONE OR MORE "ABSENT ELECTORS' VOTING PLACE." (1) Each county clerk shall provide one (1) or more "absent electors' polling place(s)" as determined necessary by each county. Each polling place shall be provided with voting booths and other necessary supplies as provided by law. Except as provided in section 34-308, Idaho Code, every elector shall always be provided the opportunity to vote in person in an election, notwithstanding any declaration of emergency, extreme emergency, or disaster emergency by the governor.

(2) Electioneering is prohibited at an "absent electors' 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 September 1, 2020

CERTIFICATE OF SECRETARY OF STATE

UNITED STATES OF AMERICA)
) ss.
STATE OF IDAHO)

I, LAWRENCE DENNEY, Secretary of the State of Idaho, do hereby certify that the foregoing printed pages contain true, full, and correct and literal copies of all the general laws and resolutions passed by the Sixty-fifth Legislature of the State of Idaho, First Extraordinary Session thereof, which convened on August 24, 2020, and which adjourned on August 26, 2020, as they appear in the enrolled acts and resolutions on file in this office, all of which are published by authority of the Laws of the State of Idaho.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Idaho. Done at Boise City, the Capital of Idaho, this fourth day of September, 2020.

Secretary of State

When errors appear in the enrolled bills received from the Legislature at the office of the Secretary of State, this office has no authority to correct them.

INDEX

CONTENTS

Subject Index	12
Code Index	13
Numerical Index of Laws by Bill Number	14

INDEX

SUBJECT INDEX

ACTS		
Coronavirus Limited Immunity Act, add.....	Ch. 2 -	7
BALLOTS		
See ELECTIONS		
CIVIL ACTIONS		
Coronavirus Limited Immunity Act, new.....	Ch. 2 -	7
COUNTIES		
Election day voting, in person, state of emergency.....	Ch. 3 -	8
Elections, ballots, absentee, issuance/counting.....	Ch. 1 -	5
DISEASES		
Coronavirus Limited Immunity Act, new.....	Ch. 2 -	7
ELECTIONS		
Election day voting, in person, state of emergency.....	Ch. 3 -	8
Elections, ballots, absentee, issuance/counting.....	Ch. 1 -	5
IMMUNITY		
See LIABILITY		
LIABILITY		
Coronavirus Limited Immunity Act, new.....	Ch. 2 -	7
SECRETARY OF STATE		
Election day voting, in person, state of emergency.....	Ch. 3 -	8
Elections, ballots, absentee, issuance/counting.....	Ch. 1 -	5
VOTING AND VOTERS		
Election day voting, in person, state of emergency.....	Ch. 3 -	8
Elections, ballots, absentee, issuance/counting.....	Ch. 1 -	5

CODE INDEX

TABLE OF AMENDMENTS, REPEALS, ADDITIONS AND REFERENCES

Code citation, action, session law chapter number, and page number are shown for bills which passed

TITLE 6			
6-1601	Referred to	Ch. 2 -	8
6-3401	New Section Added	Ch. 2 -	7
6-3402	New Section Added	Ch. 2 -	7
6-3403	New Section Added	Ch. 2 -	8
TITLE 34			
34-308	Referred to	Ch. 3 -	8
34-1003	Amended	Ch. 1 -	5
34-1006	Amended	Ch. 3 -	8
34-1007	Amended	Ch. 1 -	6
TITLE 72			
Title 72	Referred to	Ch. 2 -	8

NUMERICAL LIST OF SENATE BILLS

that became law with a brief synopsis and the
chapter number of each bill

		Chapter - Page
S 1001aa	Elections, absentee ballots	Ch. 1 - 5

NUMERICAL LIST OF HOUSE BILLS

that became law with a brief synopsis and the
chapter number of each bill

		Chapter	-	Page
H 1	Elections, in-person voting	Ch. 3	-	8
H 6	Coronavirus limited immunity	Ch. 2	-	7

GENERAL LAWS
OF THE
STATE OF IDAHO



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

**Convened January 11, 2021
Adjourned November 17, 2021**

Volume 1

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

**Chairman Lakey
Senate Judiciary & Rules
Chairman Chaney
House Judiciary, Rules & Administration**

CHAPTER 1
(S.B. No. 1008)

AN ACT

RELATING TO THE APPROPRIATION TO THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 2021; APPROPRIATING ADDITIONAL MONEYS TO THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 2021; 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 316, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Office of the State Board of Education for the IT and Data Management Program \$166,500 from the General Fund to be expended for operating expenditures for the period July 1, 2020, through June 30, 2021.

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 9, 2021

CHAPTER 2
(S.B. No. 1023)

AN ACT

RELATING TO APPROPRIATIONS; APPROPRIATING AND TRANSFERRING MONEYS FROM THE GENERAL FUND 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 Office of the State Controller shall transfer \$279,000 from the General Fund to the Pest Control Deficiency Fund as soon as practicable for the period July 1, 2020, through June 30, 2021. 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 9, 2021

CHAPTER 3
(S.B. No. 1004)

AN ACT

RELATING TO THE TWENTY-SEVENTH PAYROLL FUND; AMENDING CHAPTER 8, TITLE 57, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 57-825, IDAHO CODE, TO ESTABLISH THE TWENTY-SEVENTH PAYROLL FUND, TO PROVIDE FOR AVAILABLE MONIES, AND TO PROVIDE FOR INTEREST EARNINGS.

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

SECTION 1. That Chapter 8, Title 57, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 57-825, Idaho Code, and to read as follows:

57-825. TWENTY-SEVENTH PAYROLL FUND. There is hereby created in the state treasury the twenty-seventh payroll fund for the purpose of meeting the general fund payroll costs for state employees in years in which the state incurs a twenty-seventh payroll. The account shall consist of any moneys made available through legislative transfers, appropriations, or as otherwise provided by law. Interest earnings from the investment of moneys in this fund by the state treasurer shall be returned to the fund.

Approved February 11, 2021

CHAPTER 4
(H.B. No. 11)

AN ACT

RELATING TO APPROPRIATIONS; APPROPRIATING AND TRANSFERRING MONEYS FROM THE GENERAL FUND TO THE HAZARDOUS SUBSTANCE EMERGENCY RESPONSE FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated and the Office of the State Controller shall transfer \$34,300 from the General Fund to the Hazardous Substance Emergency Response Fund as soon as practicable for the period July 1, 2020, through June 30, 2021. Such moneys shall be used to reimburse costs incurred by the Military Division's Office of Emergency Management Program pursuant to Section 39-7110, 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 15, 2021

CHAPTER 5
(S.B. No. 1034)

AN ACT

RELATING TO THE APPROPRIATION TO THE COMMISSION OF PARDONS AND PAROLE FOR FISCAL YEAR 2021; CREATING THE FEDERAL COVID-19 RELIEF FUND; APPROPRIATING ADDITIONAL MONEYS TO THE COMMISSION OF PARDONS AND PAROLE FOR FISCAL YEAR 2021; AND DECLARING AN EMERGENCY.

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

SECTION 1. FEDERAL COVID-19 RELIEF FUND. There is hereby created in the state treasury the Federal COVID-19 Relief Fund. The fund shall be used to account for receipts, disbursements, and reimbursements related to the federal Coronavirus Aid, Relief, and Economic Security Act, the Coronavirus Response and Relief Supplemental Appropriations Act, and any other federal stimulus moneys subsequently received by the state of Idaho. Except as prohibited by law, the Office of the State Treasurer shall invest idle moneys and the fund shall retain its interest.

SECTION 2. In addition to the appropriation made in Section 1, Chapter 93, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Commission of Pardons and Parole \$70,000 from the Federal COVID-19 Relief Fund to be expended for operating expenditures for the period July 1, 2020, through June 30, 2021.

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

Approved February 17, 2021

CHAPTER 6
(H.B. No. 18)

AN ACT

RELATING TO THE APPROPRIATION TO THE LEGISLATIVE BRANCH FOR FISCAL YEAR 2021; APPROPRIATING ADDITIONAL MONEYS TO THE LEGISLATIVE BRANCH FOR THE LEGISLATIVE SERVICES OFFICE FOR FISCAL YEAR 2021; 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 171, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Legislative Branch for the Legislative Services Office the following amounts to be expended according to the designated expense classes from the General Fund for the period July 1, 2020, through June 30, 2021:

FOR:

Personnel Costs	\$27,000
Operating Expenditures	<u>250,000</u>
TOTAL	\$277,000

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

Approved February 17, 2021

CHAPTER 7
(S.B. No. 1012)

AN ACT

RELATING TO DENTISTS; AMENDING SECTION 54-912, IDAHO CODE, TO REMOVE A REPORTING REQUIREMENT; REPEALING SECTION 54-914, IDAHO CODE, RELATING TO DENTISTS AND DENTAL HYGIENISTS PREVIOUSLY QUALIFIED; REPEALING SECTION 54-917, IDAHO CODE, RELATING TO ALLOWANCE OR REJECTION OF APPLICANT; AMENDING SECTION 54-924, IDAHO CODE, TO PROHIBIT CERTAIN LIMITATIONS ON COMPLAINT FILING AND TO MAKE A TECHNICAL CORRECTION; AND REPEALING SECTION 54-932, IDAHO CODE, RELATING TO LOST OR DESTROYED CERTIFICATES OR LICENSES.

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

SECTION 1. That Section 54-912, Idaho Code, be, and the same is hereby amended to read as follows:

54-912. BOARD OF DENTISTRY -- POWERS AND DUTIES. The board shall have the following powers and duties:

(1) To ascertain the qualifications and fitness of applicants to practice dentistry, a dental specialty, dental therapy, or dental hygiene; to prepare, conduct and grade qualifying examinations; to require and accept passing results of written and clinical examinations from approved dental, dental therapy, and dental hygiene testing organizations; to issue in the name of the board a certificate of qualification to applicants found to be fit and qualified to practice dentistry, dental therapy, or dental hygiene.

(2) To prescribe rules for a fair and wholly impartial method of licensure and examination of applicants to practice dentistry, a dental specialty, dental therapy, or dental hygiene.

(3) To define by rule what shall constitute accepted and approved schools, colleges, institutions, universities or departments thereof for the teaching of dentistry, dental therapy, or dental hygiene and to determine, accept and approve those that comply therewith.

(4) To promulgate other rules required by law or necessary or desirable for its enforcement and administration; to define by rule the terms unprofessional conduct or practices injurious to the public as the terms are used in section 54-924, Idaho Code, to furnish applications, certificates, licenses and other necessary forms.

(5) To inspect or cause to be inspected the offices or operating rooms of all persons licensed under this chapter.

(6) (a) Upon its own motion or upon any complaint, to initiate and conduct investigations on all matters relating to the practice of dentistry, dental therapy, or dental hygiene and to conduct hearings or proceedings on its own or through its designated hearing officer, to revoke, suspend or otherwise condition certificates of qualification or licenses of persons practicing dentistry, dental therapy, or dental hygiene and, on such terms as the board shall deem appropriate, to revoke, suspend, or otherwise condition such licenses, provided such hearings and proceedings shall be had in conformance with the provisions of chapter 52, title 67, Idaho Code. Final decisions of the board

shall be subject to judicial review as provided in chapter 52, title 67, Idaho Code.

(b) 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, including the right to contest the emergency proceedings and appeal, under the applicable provisions of chapter 52, title 67, Idaho Code.

(7) The board, its designated hearing officer, or representative shall have power to administer oaths, the power to engage in discovery as provided in the Idaho rules of civil procedure and chapter 52, title 67, Idaho Code, including, but not limited to, the power to take depositions of witnesses within or without the state in the manner provided by law in civil cases, and shall have power throughout the state of Idaho to require the attendance of witnesses and the production of books, records and papers as it may desire at any hearing before it of any matter which it has authority to investigate, and for that purpose the board or its designated hearing officer may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records or papers, directed to the sheriff of any county of the state of Idaho, where the witness resides, or may be found, which shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. The fees and mileage of the witnesses shall be the same as that allowed in the district courts in criminal cases and shall be paid from the state board of dentistry fund in the same manner as other expenses of the board are paid. In any case of disobedience to, or neglect of, any subpoena or subpoena duces tecum served upon any person, or the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated, it shall be the duty of the district court, or any judge thereof, of any county in this state in which the disobedience, neglect or refusal occurs, upon application by the board to compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court or for refusal to testify. The licensed person accused in the proceedings shall have the same right of subpoena upon making application to the board.

(8) The board shall establish an office and may appoint an executive director and may employ other personnel, including attorneys and hearing officers, as may be necessary to assist the board. The board shall prescribe the duties of the executive director and these duties shall include the preparation of all papers and records under law for the board, and shall include enforcement activities as to the board may from time to time appear advisable, and the executive director shall act for and on behalf of the board in such manner as the board may authorize, keep records, property and equipment of the board and discharge other duties as the board may from time to time prescribe. The compensation of the executive director or other personnel shall be determined by the board and the executive director shall be bonded to the state in the time, form and manner prescribed in chapter 8, title 59, Idaho Code.

~~(9) To report annually to the associations on the status of the state board of dentistry fund and furnish the associations a written report on all receipts and expenditures during the preceding year.~~

~~(10) Provide, by rule, for reasonable fees for administrative costs and assess costs reasonably and necessarily incurred in the enforcement of this chapter when a licensee has been found to be in violation of this chapter.~~

SECTION 2. That Section 54-914, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 54-917, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 54-924, Idaho Code, be, and the same is hereby amended to read as follows:

54-924. OTHER GROUNDS OF REFUSAL, REVOCATION OR SUSPENSION OF DENTISTS -- PROBATION AGREEMENTS. The board may refuse to issue or renew a dental license, or may revoke, suspend, place on probation, reprimand or take other disciplinary action with respect to a dental license as the board may deem proper, including administrative penalties not to exceed ten thousand dollars (\$10,000) per violation and assessment of the costs of disciplinary proceedings in the event a dentist shall:

(1) Intentionally misstate, or fail fully to disclose, a fact material to determination of fitness and qualification in an application for licensure to practice dentistry, or cheat in an examination to practice dentistry; or procure a certificate or finding of qualification to practice dentistry or subsequently a license by false, fraudulent or deceitful means or in any other name than his own true name; or

(2) Practice dentistry under any name other than his own true name except as a professional service corporation or professional limited liability company or as a limited managed care plan pursuant to chapter 39, title 41, Idaho Code; or

(3) Practice or in any manner or by any means or at any place hold out or represent himself as practicing dentistry in or under the name of, or as a member, representative, agent or employee of, or in connection with, any company, association, or corporation, or under any trade, fictitious or business name except as a professional service corporation or professional limited liability company or as a limited managed care plan pursuant to chapter 39, title 41, Idaho Code, except for a dentist practicing dentistry as an employee or contracting dentist providing dentistry services to any health center as defined and authorized in section 330 of the public health service act, codified as amended at 42 U.S.C. 254b; or

(4) (a) Make, or cause to be made, or assist in making, any fraudulent, false, or misleading statement as to his own, or an employee's, associate's, or other dentist's, dental therapist's, or dental hygienist's skill or lack of skill, or method of practice; or

(b) Claim to practice dentistry without causing pain; or

(c) Claim superiority over other dentists; or

(d) Publish, advertise, or circulate reports, letters, certificates, endorsements, or evidence of cures or corrections of dental conditions by such dentist, his employee or associate by reason of his or their skill, experience, or ability or of his or their use of any system, method, technique, device, drug, medicine, material, manipulation or machine; or

(e) Advertise the use of, or use, any system, method, technique, device, drug, medicine, material or machine, which is either falsely advertised or misnamed; or

(5) Use intoxicants or drugs to such a degree as to render him unfit to practice; or

(6) Commit malpractice, that is, to provide dental care which fails to meet the standard of dental care provided by other qualified dentists in the same community or similar communities, taking into account his training, experience and the degree of expertise to which he holds himself out to the public; or

(7) Engage in unprofessional conduct, as defined by board rules; or

(8) Advertise in such way as to deceive or defraud, or probably deceive or defraud, the public or patrons; or

(9) Employ or permit any person not a dentist to practice dentistry, or any person not a dentist or dental therapist to practice dental therapy, or any person not a dentist or dental hygienist to practice dental hygiene, in his office or under his control or direction; or

(10) Fail, neglect or refuse to keep his office or equipment, or otherwise conduct his work in accordance with current state and federal laws, rules and regulations; or

(11) Violate any other provisions of law or rules adopted by the board; or

(12) Falsely identify himself to the public as a specialist in a specialty area of dentistry as defined by rule; or

(13) Engage in the practice of dentistry as a member, stockholder, employee, director, partner or proprietor in any business entity in which a person, not duly licensed to practice dentistry in this state, holds an ownership interest. The provisions of this subsection shall not apply to such engagement in a limited managed care plan pursuant to chapter 39, title 41, Idaho Code, or to a dentist practicing dentistry for any health care center as defined and authorized in section 330 of the public health service act, codified as amended at 42 U.S.C. 254b-; or

(14) Supervise more than three (3) dental therapists-; or

(15) Require directly, or as a member, representative, contracted agent, or employee of or in connection with any company, association, corporation, or partnership, that a patient sign an agreement limiting his right or ability to file a complaint with the board.

SECTION 5. That Section 54-932, Idaho Code, be, and the same is hereby repealed.

Approved February 18, 2021

CHAPTER 8
(H.B. No. 58)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3004, IDAHO CODE, TO PROVIDE FOR APPLICABILITY OF CERTAIN PROVISIONS OF THE INTERNAL REVENUE CODE; AND 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. (1) The term "Internal Revenue Code" means the Internal Revenue Code, as amended, and in effect on the first day of January 2020, except that Internal Revenue Code section 461(1) is applied as in effect on January 1, 2020.

(2) 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.

(3) Notwithstanding subsection (2) 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, 2021.

Approved February 18, 2021

CHAPTER 9
(S.B. No. 1037)

AN ACT

RELATING TO HOSPITALIZATION OF THE MENTALLY ILL; AMENDING SECTION 66-329, IDAHO CODE, TO REVISE A PROVISION REGARDING WHEN A COURT MAY CONTINUE A HEARING.

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

SECTION 1. That Section 66-329, Idaho Code, be, and the same is hereby amended to read as follows:

66-329. COMMITMENT TO DEPARTMENT DIRECTOR UPON COURT ORDER -- JUDICIAL PROCEDURE. (1) Proceedings for the involuntary care and treatment of mentally ill persons by the department of health and welfare may be commenced by the filing of a written application with a court of competent jurisdiction by a friend, relative, spouse or guardian of the proposed patient, by a licensed physician, by a physician assistant or advanced practice registered nurse practicing in a hospital, by a prosecuting attorney or other public official of a municipality, county or of the state of Idaho, or by the director of any facility in which such patient may be.

(2) The application shall state the name and last known address of the proposed patient; the name and address of the spouse, guardian, next of kin, or friend of the proposed patient; whether the proposed patient can be cared for privately in the event commitment is not ordered; whether the proposed patient is, at the time of the application, a voluntary patient; whether the proposed patient has applied for release pursuant to section 66-320, Idaho Code; and a simple and precise statement of the facts showing that the proposed patient is mentally ill and either likely to injure himself or others or is gravely disabled due to mental illness.

(3) Any such application shall be accompanied by a certificate of a designated examiner stating that he has personally examined the proposed patient within the last fourteen (14) days and is of the opinion that the proposed patient is: (i) mentally ill; (ii) likely to injure himself or others or is gravely disabled due to mental illness; and (iii) lacks capacity to make informed decisions about treatment; or a written statement by the applicant that the proposed patient has refused to submit to examination by a designated examiner.

(4) Upon receipt of an application for commitment, the court shall, within forty-eight (48) hours, appoint another designated examiner to make a personal examination of the proposed patient, or if the proposed patient has not been examined, the court shall appoint two (2) designated examiners to make individual personal examinations of the proposed patient and may order the proposed patient to submit to an immediate examination. If neither designated examiner is a physician, the court shall order a physical examination of the proposed patient. At least one (1) designated examiner shall be a psychiatrist, licensed physician or licensed psychologist. The designated examiners shall report to the court their findings within the following seventy-two (72) hours as to the mental condition of the proposed patient and his need for custody, care, or treatment by a facility. The reports shall be in the form of written certificates that shall be filed with the court. The court may terminate the proceedings and dismiss the application without taking any further action in the event the reports of the designated examiners are to the effect that the proposed patient is not mentally ill or, although mentally ill, is not likely to injure himself or others or is not gravely disabled due to mental illness. If the proceedings are terminated, the proposed patient shall be released immediately.

(5) If the designated examiner's certificate states a belief that the proposed patient is mentally ill and either likely to injure himself or others or is gravely disabled due to mental illness, the judge of such court shall issue an order authorizing any health officer, peace officer, or director of a facility to take the proposed patient to a facility in the community in which the proposed patient is residing or to the nearest facility to await the hearing, and for good cause may authorize treatment during such period subject to the provisions of section 66-346(a)(4), Idaho Code. Under no circumstances shall the proposed patient be detained in a nonmedical unit used for the detention of individuals charged with or convicted of penal offenses.

(6) Upon receipt of such application and designated examiners' reports, the court shall appoint a time and place for a hearing not more than seven (7) days from the receipt of such designated examiners' reports and thereupon give written notice of such time and place of such hearing, together with a copy of the application, designated examiner's certificates, and notice of the proposed patient's right to be represented by an attorney or, if indigent, to be represented by a court-appointed attorney, to the applicant, to the proposed patient, to the proposed patient's spouse, guardian, next of kin, or friend. With the consent of the proposed patient and his attorney, the hearing may be held immediately. Upon motion of the petitioner, or upon motion of the proposed patient and attorney, and for good cause shown, the court may continue the hearing up to an additional five seven (57) days during which time, for good cause shown, the court may authorize treatment.

(7) An opportunity to be represented by counsel shall be afforded to every proposed patient, and, if neither the proposed patient nor others provide counsel, the court shall appoint counsel in accordance with chapter 8, title 19, Idaho Code, no later than the time the application is received by the court.

(8) If the involuntary detention was commenced under this section, the hearing shall be held at a facility, at the home of the proposed patient, or at any other suitable place not likely to have a harmful effect on the proposed patient's physical or mental health. Venue for the hearing shall be in the county of residence of the proposed patient or in the county where the proposed patient was found immediately prior to commencement of such proceedings.

(9) In all proceedings under this section, any existing provision of the law prohibiting the disclosure of confidential communications between the designated examiner and proposed patient shall not apply and any designated examiner who shall have examined the proposed patient shall be a competent witness to testify as to the proposed patient's condition.

(10) The proposed patient, the applicant, and any other persons to whom notice is required to be given shall be afforded an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses. The proposed patient shall be required to be present at the hearing unless the court determines that the mental or physical state of the proposed patient is such that his presence at the hearing would be detrimental to the proposed patient's health or would unduly disrupt the proceedings. A record of the proceedings shall be made as for other civil hearings. The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure. The court shall receive all relevant and material evidence consistent with the rules of evidence.

(11) If, upon completion of the hearing and consideration of the record, and after consideration of reasonable alternatives including, but not limited to, holding the proceedings in abeyance for a period of up to thirty (30) days, the court finds by clear and convincing evidence that the proposed patient:

(a) Is mentally ill; and

(b) Is, because of such condition, likely to injure himself or others, or is gravely disabled due to mental illness;

the court shall order the proposed patient committed to the custody of the department director for observation, care, and treatment for an indeterminate period of time not to exceed one (1) year. The department director, through his dispositioner, shall determine within twenty-four (24) hours the least restrictive available facility or outpatient treatment, consistent with the needs of each patient committed under this section for observation, care, and treatment.

(12) The commitment order constitutes a continuing authorization for the department of health and welfare, law enforcement, or director of a facility, upon request of the director of the outpatient facility, the physician, or the department director through his dispositioner, to transport a committed patient to designated outpatient treatment for the purpose of making reasonable efforts to obtain the committed patient's compliance with the terms and conditions of outpatient treatment. If the director of the outpatient facility, the treating physician, or the department director through his dispositioner determines any of the following:

(a) The patient is failing to adhere to the terms and conditions of outpatient treatment or the patient refuses outpatient treatment after reasonable efforts at compliance have been made; or

(b) Outpatient treatment is not effective after reasonable efforts have been made;

the department director through his dispositioner shall cause the committed patient to be transported by the department of health and welfare, law enforcement, or director of a facility to the least restrictive available facility for observation, care, and treatment on an inpatient basis. Within forty-eight (48) hours of a committed patient's transfer from outpatient treatment to a facility for inpatient treatment, the department director through his dispositioner shall notify the court that originally ordered the commitment, the committed patient's attorney, and the committed patient's spouse, guardian, adult next of kin, or friend of the change in disposition and provide a detailed affidavit reciting the facts and circumstances supporting the transfer from outpatient treatment to inpatient treatment at a facility. The court shall conduct an ex parte review of the notice and affidavit within forty-eight (48) hours of filing and determine whether the change in disposition from outpatient treatment to inpatient treatment at a

facility is supported by probable cause. In no event shall the calculation of forty-eight (48) hours provided for in this subsection include holidays formally recognized and observed by the state of Idaho, nor shall the calculation include weekends. If the court determines that probable cause exists, the department director through his dispositioner shall continue with care and treatment on an inpatient basis at the least restrictive available facility. Within twenty-four (24) hours of a finding of probable cause, the court shall issue an order to show cause why the patient does not meet the conditions in paragraph (a) or (b) of this subsection. The order shall be served on the committed patient, the committed patient's attorney and the committed patient's spouse, guardian, adult next of kin, or friend. The patient shall have fifteen (15) days to present evidence that the conditions in paragraph (a) or (b) of this subsection have not been met. In no event shall the calculation of twenty-four (24) hours provided for in this subsection include holidays formally recognized and observed by the state of Idaho, nor shall the calculation include weekends. If the court determines that a change in disposition from outpatient treatment to inpatient treatment does not meet the conditions in paragraph (a) or (b) of this subsection, the department director through his dispositioner will continue with outpatient treatment on the same or modified terms and conditions. Nothing provided in this section shall limit the authority of any law enforcement officer to detain a patient pursuant to the emergency authority conferred by section 66-326, Idaho Code.

(13) Nothing in this chapter or in any rule adopted pursuant thereto shall be construed to authorize the detention or involuntary admission to a hospital or other facility of an individual who:

(a) Has epilepsy, a developmental disability, a physical disability, an intellectual disability, is impaired by chronic alcoholism or drug abuse, or aged, unless in addition to such condition, such person is mentally ill;

(b) Is a patient under treatment by spiritual means alone, through prayer, in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof and who asserts to any authority attempting to detain him that he is under such treatment and who gives the name of a practitioner so treating him to such authority; or

(c) Can be properly cared for privately with the help of willing and able family or friends, and provided that such person may be detained or involuntarily admitted if such person is mentally ill and presents a substantial risk of injury to himself or others if allowed to remain at liberty.

(14) The order of commitment shall state whether the proposed patient lacks capacity to make informed decisions about treatment, the name and address of the patient's attorney and the patient's spouse, guardian, adult next of kin, or friend.

(15) If the patient has no spouse or guardian and if the patient has property that may not be cared for pursuant to chapter 5, title 66, Idaho Code, or by the patient while confined at a facility, the court shall appoint a guardian ad litem for the purpose of preserving the patient's estate, pending further guardianship or conservatorship proceedings.

(16) The commitment shall continue until terminated and shall be unaffected by the patient's conditional release or change in disposition.

CHAPTER 10
(S.B. No. 1036)

AN ACT

RELATING TO TEMPORARY GUARDIANS; AMENDING SECTION 66-404A, IDAHO CODE, TO REVISE A PROVISION REGARDING A HEARING ON THE APPROPRIATENESS OF AN APPOINTMENT AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 66-404A, Idaho Code, be, and the same is hereby amended to read as follows:

66-404A. TEMPORARY GUARDIANS. (1) The court may appoint a temporary guardian if it finds:

- (a) A petition for guardianship under section 66-404, Idaho Code, has been filed, but a guardian has not yet been appointed;
- (b) Substantial evidence the person has a developmental disability;
- (c) By a preponderance of the evidence, an emergency exists that will likely result in immediate and substantial harm to the person's health, safety or welfare; and
- (d) No other person appears to have the ability, authority and willingness to act.

(2) When a person is under guardianship, the court may appoint a temporary guardian if it finds:

- (a) Substantial evidence that the guardian is not performing the guardian's duties; and
- (b) By a preponderance of the evidence, an emergency exists that will likely result in immediate and substantial harm to the person's health, safety or welfare.

The authority of a guardian previously appointed by the court is suspended as long as a temporary guardian has authority. The court must hold a hearing before the expiration of the temporary guardian's authority and may enter any appropriate order.

(3) (a) A temporary guardian may be appointed without notice or hearing if the court finds from a statement under oath that the person will be immediately and substantially harmed before notice can be given or a hearing held.

(b) If the court appoints a temporary guardian without notice, notice of the appointment must be given to those designated in section 66-404(4), Idaho Code, within seventy-two (72) hours after the appointment. The notice must inform interested persons of the right to request a hearing. The court must hold a hearing on the appropriateness of the appointment within ~~ten~~ fourteen (10~~4~~) days after request by an interested person.

(c) The temporary guardian's authority may not exceed ninety (90) days, unless extended for good cause. The powers of the temporary guardian must be limited to those necessary to protect the immediate health, safety or welfare of the person until such time as a hearing may be held in the matter.

(d) A temporary guardian must make reports as the court requires.

Approved February 26, 2021

CHAPTER 11
(S.B. No. 1017)

AN ACT

RELATING TO UNIFORM CONTROLLED SUBSTANCES; AMENDING SECTION 37-2701, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 37-2705, IDAHO CODE, TO PROVIDE FOR CERTAIN SYNTHETIC DRUGS; AMENDING SECTION 37-2707, IDAHO CODE, TO PROVIDE FOR A CERTAIN CONTROLLED SUBSTANCE; AMENDING SECTION 37-2711, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AND AMENDING SECTION 37-2713, IDAHO CODE, TO REVISE PROVISIONS REGARDING SCHEDULE V.

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

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

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

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

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

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

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

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

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

(f) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance.

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

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

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

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

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

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

(m) "Drug" means: (1) substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals; (3) substances, other than food, intended to affect the structure or any function of the body of man or animals; and (4) substances intended for use as a component of any article

specified in clause (1), (2), or (3) of this subsection. It does not include devices or their components, parts, or accessories.

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

- (1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
- (2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;
- (3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
- (4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;
- (5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
- (6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;
- (7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
- (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;
- (9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
- (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;
- (11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;
- (12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:
 - (i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - (ii) Water pipes;
 - (iii) Carburetion tubes and devices;
 - (iv) Smoking and carburetion masks;
 - (v) Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
 - (vi) Miniature cocaine spoons, and cocaine vials;
 - (vii) Chamber pipes;
 - (viii) Carburetor pipes;
 - (ix) Electric pipes;
 - (x) Air-driven pipes;

- (xi) Chillums;
- (xii) Bongs;
- (xiii) Ice pipes or chillers;

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

1. Statements by an owner or by anyone in control of the object concerning its use;
2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;
3. The proximity of the object, in time and space, to a direct violation of this chapter;
4. The proximity of the object to controlled substances;
5. The existence of any residue of controlled substances on the object;
6. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is intended for use⁷ or designed for use as drug paraphernalia;
7. Instructions, oral or written, provided with the object concerning its use;
8. Descriptive materials accompanying the object ~~which~~ that explain or depict its use;
9. National and local advertising concerning its use;
10. The manner in which the object is displayed for sale;
11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
12. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
13. The existence and scope of legitimate uses for the object in the community;
14. Expert testimony concerning its use.

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

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

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

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

(s) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, and includes extraction, directly or indirectly, from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container,

except that this term does not include the preparation or compounding of a controlled substance:

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

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

(t) "Marijuana" means all parts of the plant of the genus Cannabis, regardless of species, and whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. It does not include the mature stalks of the plant unless the same are intermixed with prohibited parts thereof, fiber produced from the stalks, oil or cake made from the seeds or the achene of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom or where the same are intermixed with prohibited parts of such plant, fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination. Evidence that any plant material or the resin or any derivative thereof, regardless of form, contains any of the chemical substances classified as tetrahydrocannabinols shall create a presumption that such material is "marijuana" as defined and prohibited herein. "Marijuana" does not include drug product in finished dosage formulation that has been approved by the United States food and drug administration that contains cannabidiol (2-[1R-3-methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol) derived from cannabis and no more than one-tenth of one percent (0.1%) (w/w) residual tetrahydrocannabinols.

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

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

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

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

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

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

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

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

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

(aa) "Practitioner" means:

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 2. That Section 37-2705, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidiny]-N-phenylacetamide);

(2) Acetylmethadol;

(3) Acetyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide);

- (4) Acryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide);
- (5) Allylprodine;
- (6) Alphacetylmethadol (except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate or LAAM);
- (7) Alphameprodine;
- (8) Alphamethadol;
- (9) Alpha-methylfentanyl;
- (10) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
- (11) Benzethidine;
- (12) Betacetylmethadol;
- (13) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);
- (14) Beta-hydroxy-3-methylfentanyl (N-(1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl)-N-phenylpropanamide);
- (15) Betameprodine;
- (16) Betamethadol;
- (17) Betaprodine;
- (18) Clonitazene;
- (19) Cyclopentyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopentanecarboxamide);
- (20) Cyclopropyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide);
- (21) Dextromoramide;
- (22) Diampromide;
- (23) Diethylthiambutene;
- (24) Difenoxin;
- (25) Dimenoxadol;
- (26) Dimepheptanol;
- (27) Dimethylthiambutene;
- (28) Dioxaphetyl butyrate;
- (29) Dipipanone;
- (30) Ethylmethylthiambutene;
- (31) Etonitazene;
- (32) Etoxidine;
- (33) Fentanyl-related substances. "Fentanyl-related substances" means any substance not otherwise listed and for which no exemption or approval is in effect under section 505 of the federal food, drug, and cosmetic act, 21 U.S.C. 355, and that is structurally related to fentanyl by one (1) or more of the following modifications:
 - i. Replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle;
 - ii. Substitution in or on the phenethyl group with alkyl, alkenyl, alkoxy, hydroxyl, halo, haloalkyl, amino, or nitro groups;
 - iii. Substitution in or on the piperidine ring with alkyl, alkenyl, alkoxy, ester, ether, hydroxyl, halo, haloalkyl, amino, or nitro groups;
 - iv. Replacement of the aniline ring with any aromatic monocycle, whether or not further substituted in or on the aromatic monocycle; and/or
 - v. Replacement of the N-propionyl group by another acyl group;
- (34) 4-Fluoroisobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide);
- (35) Furanyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide);
- (36) Furethidine;
- (37) Hydroxypethidine;

- (38) Isobutyryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylisobutyramide);
- (39) Ketobemidone;
- (40) Levomoramide;
- (41) Levophenacymorphan;
- (42) 3-Methylfentanyl;
- (43) 3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
- (44) Morpheridine;
- (45) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- (46) MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine);
- (47) Noracymethadol;
- (48) Norlevorphanol;
- (49) Normethadone;
- (50) Norpipanone;
- (51) Ocfentanil (N-(2-fluorophenyl)-2-methoxy-N-(1-phenethylpiperidin-4-yl) acetamide);
- (52) Para-chloroisobutyryl fentanyl (N-(4-chlorophenyl)-N-(1-phenethylpiperidin-4-yl) isobutyramide);
- (53) Para-fluorobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl) butyramide);
- (54) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide);
- (55) Para-methoxybutyryl fentanyl (N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl) butyramide);
- (56) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- (57) Phenadoxone;
- (58) Phenampromide;
- (59) Phenomorphan;
- (60) Phenoperidine;
- (61) Piritramide;
- (62) Proheptazine;
- (63) Properidine;
- (64) Propiram;
- (65) Racemoramide;
- (66) Tetrahydrofuranyl fentanyl (N-(1-phenethylpiperidine-4-yl)-N-phenyltetrahydrofuran-2-carboxamide);
- (67) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);
- (68) Tilidine;
- (69) Trimeperidine;
- (70) u-47700 (3,4-Dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide);
- (71) Valeryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylpentanamide).

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

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Drotebanol;
- (10) Etorphine (except hydrochloride salt);

- (11) Heroin;
- (12) Hydromorphenol;
- (13) Methyldesorphine;
- (14) Methyldihydromorphine;
- (15) Morphine methylbromide;
- (16) Morphine methylsulfonate;
- (17) Morphine-N-Oxide;
- (18) Myrophine;
- (19) Nicocodeine;
- (20) Nicomorphine;
- (21) Normorphine;
- (22) Pholcodine;
- (23) Thebacon.

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

- (1) Dimethoxyphenethylamine, or any compound not specifically excepted or listed in another schedule that can be formed from dimethoxyphenethylamine by replacement of one (1) or more hydrogen atoms with another atom(s), functional group(s) or substructure(s) including, but not limited to, compounds such as DOB, DOC, 2C-B, 25B-NBOMe;
- (2) Methoxyamphetamine or any compound not specifically excepted or listed in another schedule that can be formed from methoxyamphetamine by replacement of one (1) or more hydrogen atoms with another atom(s), functional group(s) or substructure(s) including, but not limited to, compounds such as PMA and DOM;
- (3) 5-methoxy-3,4-methylenedioxy-amphetamine;
- (4) 5-methoxy-N,N-diisopropyltryptamine;
- (5) Amphetamine or methamphetamine with a halogen substitution on the benzyl ring, including compounds such as fluorinated amphetamine and fluorinated methamphetamine;
- (6) 3,4-methylenedioxy amphetamine;
- (7) 3,4-methylenedioxymethamphetamine (MDMA);
- (8) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and N-ethyl MDA, MDE, MDEA);
- (9) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and N-hydroxy MDA);
- (10) 3,4,5-trimethoxy amphetamine;
- (11) 5-methoxy-N,N-dimethyltryptamine (also known as 5-methoxy-3-2[2-(dimethylamino)ethyl]indole and 5-MeO-DMT);
- (12) Alpha-ethyltryptamine (some other names: etryptamine, 3-(2-aminobutyl) indole);
- (13) Alpha-methyltryptamine;
- (14) Bufotenine;
- (15) Diethyltryptamine (DET);
- (16) Dimethyltryptamine (DMT);
- (17) Ibogaine;
- (18) Lysergic acid diethylamide;
- (19) Marijuana;
- (20) Mescaline;
- (21) Parahexyl;
- (22) Peyote;

- (23) N-ethyl-3-piperidyl benzilate;
- (24) N-methyl-3-piperidyl benzilate;
- (25) Psilocybin;
- (26) Psilocyn;
- (27) Tetrahydrocannabinols or synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure such as the following:

- i. Tetrahydrocannabinols:

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

- ii. The following synthetic drugs:

- a. Any compound structurally derived from (1H-indole-3-yl)(cycloalkyl, cycloalkenyl, aryl)methanone, or (1H-indole-3-yl)(cycloalkyl, cycloalkenyl, aryl)methane, or (1H-indole-3-yl)(cycloalkyl, cycloalkenyl, aryl), methyl or dimethyl butanoate, amino-methyl (or dimethyl)-1-oxobutan-2-yl carboxamide by substitution at the nitrogen atoms of the indole ring or carboxamide to any extent, whether or not further substituted in or on the indole ring to any extent, whether or not substituted to any extent in or on the cycloalkyl, cycloalkenyl, aryl ring(s) (substitution in the ring may include, but is not limited to, heteroatoms such as nitrogen, sulfur and oxygen).
- b. N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (5F-AB-PINACA).
- c. 1-(1.3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one (N-ethylpentylone, ephylone).
- d. 1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide (4-cn-cumyl-BUTINACA).
- e. Ethyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate * (5f-edmbpinaca).
- f. (1-(4-fluorobenzyl)-1H-indol-3-yl)(2,2,3,3-tetraethylcyclopropyl)methanone (fub-144).
- g. 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide (5f-cumyl-pinaca; sgt25).
- h. (1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-pyrrolo[2.3-B]pyridine-3-carboxamide (5fcumyl-P7AICA).
- i. Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoate (MMB-CHMICA, AMB-CHMICA).
- j. Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate (MDMB-CHMICA).

k. Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido-3,3-dimethylbutanoate (MDMB-FUBINACA).

l. Methyl 2-(1-(5-fluoropentyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate (5f-mdbmpieaF-MDMBPICA).

m. Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate (5F-ADB, 5FMDMB-PINACA).

n. Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (5FAMB).

o. N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (ADB-FUBINACA).

kp. N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (fub-akb48; fub-apinacaFUB-AKB48; FUB-APINACA).

q. N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (5F-APINACA, 5F-AKB48).

lr. Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (NM2201; CBL2201).

ms. Any compound structurally derived from 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring to any extent, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent.

nt. Any compound structurally derived from 1-(1-naphthylmethyl)indene by substitution at the 3-position of the indene ring to any extent, whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent.

eu. Any compound structurally derived from 3-phenylacetylindole by substitution at the nitrogen atom of the indole ring to any extent, whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent.

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

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

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

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

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

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

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

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

(31) 1-[1-(2-thienyl) cyclohexyl] pyrrolidine another name: TCPy;

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

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

- (1) Gamma hydroxybutyric acid (some other names include GHB; gamma-hydroxybutyrate, 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);
- (2) Flunitrazepam (also known as "R2," "Rohypnol");
- (3) Mecloqualone;
- (4) Methaqualone.

(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

- (1) Aminorex (some other names: aminoxaphen, 2-amino-5-phenyl-2-oxazoline, or 4,5-dihydro-5-phenyl-2-oxazolamine);
- (2) Cathinone (some other names: 2-amino-1-phenol-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone);
- (3) Substituted cathinones. Any compound, except bupropion or compounds listed under a different schedule, structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl or thiophene ring systems, whether or not the compound is further modified in any of the following ways:
 - i. By substitution in the ring system to any extent with alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl or halide substituents, whether or not further substituted in the ring system by one (1) or more other univalent substituents;
 - ii. By substitution at the 3-position with an acyclic alkyl substituent;
 - iii. By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure.
- (4) Alpha-pyrrolidinoheptaphenone* (PV8);
- (5) Alpha-pyrrolidinohexanophenone* (a-php);
- (6) 4-chloro-alpha-pyrrolidinovalerophenone* (4chloro-a-pvp);
- (7) Fenethylamine;
- (8) Methcathinone (some other names: 2-(methyl-amino)-propionophenone, alpha-(methylamino)-propionophenone, N-methylcathinone, AL-464, AL-422, AL-463 and UR1423);
- (9) (+/-)cis-4-methylaminorex [(+/-)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine];
- (10) 4-methyl-alpha-ethylaminopentophenone* (4meap);
- (11) 4'-methyl-alpha-pyrrolidinohexiophenone* (mphp);
- (12) N-benzylpiperazine (also known as: BZP, 1-benzylpiperazine);
- (13) N-ethylamphetamine;
- (14) N-ethylhexedrone*;
- (15) N,N-dimethylamphetamine (also known as: N,N-alpha-trimethylbenzeneethanamine).

SECTION 3. 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 subsection, 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 include the following:

1. Decocainized 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 that 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-acetylmet-hadol, 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) Norfentanyl (N-phenyl-N-(piperidin-4-yl) propionamide);
- (19) Pethidine (meperidine);
- (1920) Pethidine -- Intermediate -- A, 4-cyano-1-methyl-4-phenyl-piperidine;
- (201) Pethidine -- Intermediate -- B, ethyl-4-phenylpiperidine-4-carboxylate;
- (212) Pethidine -- Intermediate -- C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (223) Phenazocine;
- (234) Piminodine;
- (245) Racemethorphan;
- (256) Racemorphan;
- (267) Remifentanil;
- (278) 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 CFR 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).

SECTION 4. That Section 37-2711, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

- (1) No more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;
- (2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane).
- (3) 2- [(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol (including tramadol), including its salts, optical and geometric isomers, and salts of isomers.

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

- (1) Alfaxalone 5[alpha]-pregnan-3[alpha]-ol-11,20-dione;
- (2) Alprazolam;
- (3) Barbital;
- (4) Bromazepam;
- (5) Camazepam;
- (6) ~~Carisprodol~~ Carisoprodol;
- (7) Chloral betaine;
- (8) Chloral hydrate;
- (9) Chlordiazepoxide;
- (10) Clobazam;
- (11) Clonazepam;

- (12) Clorazepate;
- (13) Clotiazepam;
- (14) Cloxazolam;
- (15) Delorazepam;
- (16) Diazepam;
- (17) Dichloralphenazone;
- (18) Estazolam;
- (19) Ethchlorvynol;
- (20) Ethinamate;
- (21) Ethyl loflazepate;
- (22) Fludiazepam;
- (23) Flurazepam;
- (24) Fospropofol;
- (25) Halazepam;
- (26) Haloxazolam;
- (27) Ketazolam;
- (28) Loprazolam;
- (29) Lorazepam;
- (30) Lormetazepam;
- (31) Mebutamate;
- (32) Medazepam;
- (33) Meprobamate;
- (34) Methohexital;
- (35) Methylphenobarbital (mephobarbital);
- (36) Midazolam;
- (37) Nimetazepam;
- (38) Nitrazepam;
- (39) Nordiazepam;
- (40) Oxazepam;
- (41) Oxazolam;
- (42) Paraldehyde;
- (43) Petrichloral;
- (44) Phenobarbital;
- (45) Pinazepam;
- (46) Prazepam;
- (47) Quazepam;
- (48) Suvorexant;
- (49) Temazepam;
- (50) Tetrazepam;
- (51) Triazolam;
- (52) Zaleplon;
- (53) Zolpidem;
- (54) Zopiclone.

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

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

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

- (1) Cathine ((+)-norpseudoephedrine);
- (2) Diethylpropion;

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

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

- (1) Pentazocine;
- (2) Butorphanol (including its optical isomers);
- (3) Eluxadoline (5-[[[(2S)-2-amino-3-[4-aminocarbonyl]-2,6-dimethylphenyl]-1-oxopropyl][(1S)-1-(4-phenyl-1H-imidazol-2-yl)ethyl]amino]methyl]-2-methoxybenzoic acid) (including its optical isomers) and its salts, isomers, and salts of isomers.

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

SECTION 5. That Section 37-2713, Idaho Code, be, and the same is hereby amended to read as follows:

37-2713. SCHEDULE V. (a) Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts, as set forth below.

(c) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or salts thereof, which shall include one (1) or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

- (1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;
- (2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;
- (3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;
- (4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;
- (5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;
- (6) Not more than 0.5 milligrams difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

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

- (1) Brivaracetam ((2S)-2-[(4R)-2-oxo-4-propylpyrrolidin-1-yl]butanamide) (also referred to as BRV; UCB-34714; Briviact) (including its salts);
- (2) Ezogabine [N-[2-amino-4-(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester]-2779;
- (3) Lacosamide;
- (4) Lasmiditan [2,4,6-trifluoro-N-(6-(1-methylpiperidine-4-carbonyl)pyridine-2-yl)benzamide];
- (5) Pregabalin;
- (56) Pyrovalerone.

~~(e) Approved cannabidiol drugs. A drug product in finished dosage formulation that has been approved by the U.S. food and drug administration that contains cannabidiol (2-[1R-3-methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol) derived from cannabis and no more than 0.1 percent (w/w) residual tetrahydrocannabinols.~~

Approved February 26, 2021

CHAPTER 12
(S.B. No. 1071)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR FISCAL YEAR 2021; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR THE ADMINISTRATION AND SUPPORT SERVICES PROGRAM FOR FISCAL YEAR 2021; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR THE WATER QUALITY PROGRAM FOR FISCAL YEAR 2021; 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 178, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Department of Environmental Quality for the Administration and Support Services Program \$71,300 from the IPDES Program Fund to be expended for personnel costs for the period July 1, 2020, through June 30, 2021, for the purpose of funding employee salaries previously covered by the General Fund.

SECTION 2. In addition to the appropriation made in Section 1, Chapter 178, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Department of Environmental Quality for the Water Quality Program the following amounts to be expended according to the designated expense classes from the IPDES Program Fund for the period July 1, 2020, through June 30, 2021, for the purpose of funding employee salaries and travel costs previously covered by the General Fund:

FOR:

Personnel Costs	\$229,600
Operating Expenditures	<u>10,400</u>
TOTAL	\$240,000

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

Approved February 26, 2021

CHAPTER 13
(H.B. No. 42)

AN ACT

RELATING TO MEDICAL DEBT COLLECTION; AMENDING CHAPTER 3, TITLE 48, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 48-313, IDAHO CODE, TO PROVIDE A TIME EXTENSION FOR EXTRAORDINARY COLLECTION ACTIONS FOR MEDICAL GOODS OR SERVICES PROVIDED PRIOR TO JULY 1, 2021; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 3, Title 48, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 48-313, Idaho Code, and to read as follows:

48-313. TIME EXTENSION FOR SERVICES PROVIDED PRIOR TO A CERTAIN DATE. For goods or services provided to a patient prior to July 1, 2021, a party may take extraordinary collection action pursuant to section 48-306, Idaho Code, even if such party fails to satisfy the additional forty-five (45) and ninety (90) day time periods prescribed in that section, as long as all of the other requirements of section 48-306, Idaho Code, have been satisfied.

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 1, 2021

CHAPTER 14
(H.B. No. 67)

AN ACT

RELATING TO SCHOOLS; AMENDING SECTION 33-512, IDAHO CODE, TO PROVIDE THAT A BOARD OF SCHOOL DISTRICT TRUSTEES MAY CLOSE SCHOOLS UNDER CERTAIN CIRCUMSTANCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 2, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-212, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING THE AUTHORITY TO CLOSE SCHOOLS, LIMIT SCHOOL PROGRAMS OR ACTIVITIES, OR REQUIRE MEASURES TO PREVENT THE SPREAD OF CONTAGIOUS OR INFECTIOUS DISEASE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-512, Idaho Code, be, and the same is hereby amended to read as follows:

33-512. GOVERNANCE OF SCHOOLS. The board of trustees of each school district shall have the following powers and duties:

(1) To fix the days of the year and the hours of the day when schools shall be in session. However:

(a) Each school district shall annually adopt and implement a school calendar which that provides its students at each grade level with the following minimum number of instructional hours:

Grades	Hours
9-12	990
4-8	900
1-3	810
K	450
Alternative schools (any grades)	900

(b) School assemblies, testing and other instructionally related activities involving students directly may be included in the required instructional hours.

(c) When approved by a local school board, annual instructional hour requirements stated in paragraph (a) of this subsection may be reduced as follows:

(i) Up to a total of twenty-two (22) hours to accommodate staff development activities conducted on such days as the local school board deems appropriate.

(ii) Up to a total of eleven (11) hours of emergency school closures due to adverse weather conditions and facility failures.

However, transportation to and from school, passing times between classes, recess and lunch periods shall not be included.

(d) Student and staff activities related to the opening and closing of the school year, grade reporting, program planning, staff meetings, and other classroom and building management activities shall not be counted as instructional time or in the reductions provided in paragraph (c) (i) of this subsection.

(e) For multiple shift programs, this rule applies to each shift (i.e., each student must have access to the minimum annual required hours of instruction).

(f) The instructional time requirement for grade 12 students may be reduced by action of a local school board for an amount of time not to exceed eleven (11) hours of instructional time.

(g) The state superintendent of public instruction may grant an exemption from the provisions of this section for an individual building within a district, when the closure of that building, for unforeseen circumstances, does not affect the attendance of other buildings within the district.

(h) The state board of education may grant a waiver of the minimum number of instructional hours for a school district when districtwide school closures are necessary as a result of natural occurrences creating unsafe conditions for students. A county or state disaster declaration must have been issued for one (1) or more of the counties in which the school district is located. A waiver request to the state board of education must describe the efforts by the school district to make up lost instructional hours, the range of grades impacted, and the number of hours the school district is requesting be waived.

(i) The reduction of instructional hours allowed in paragraphs (f) through (h) of this subsection may not be combined in a single school year.

(2) To adopt and carry on and to provide for the financing of a total educational program for the district. Such programs in other than elementary school districts may include education programs for out-of-school youth and adults, and such districts may provide classes in kindergarten;

(3) To provide, or require pupils to be provided with, suitable textbooks and supplies, and, for advice on textbook selections, may appoint a curricular materials adoption committee as provided in section 33-512A, Idaho Code;

(4) To protect the morals and health of the pupils;

(5) To exclude from school, children not of school age;

(6) To prescribe rules for the disciplining of unruly or insubordinate pupils, including rules on student harassment, intimidation and bullying, such rules to be included in a district discipline code adopted by the board of trustees and a summarized version thereof to be provided in writing at the beginning of each school year to the teachers and students in the district in a manner consistent with the student's age, grade and level of academic achievement;

(7) To exclude from school, pupils with contagious or infectious diseases who are diagnosed or suspected as having a contagious or infectious disease or those who are not immune and have been exposed to a contagious or infectious disease; and to close school ~~on order of the state board of health and welfare or local health authorities~~ if the board determines that conditions warrant such closure, based on consultation with the district health department of the public health district in which the school district is located;

(8) To equip and maintain a suitable library or libraries in the school or schools and to exclude therefrom, and from the schools, all books, tracts, papers, and catechisms of sectarian nature;

(9) To determine school holidays. Any listing of school holidays shall include not less than the following: New Year's Day, Memorial Day, Independence Day, Thanksgiving Day, and Christmas Day. Other days listed in section 73-108, Idaho Code, if the same shall fall on a school day, shall be observed with appropriate ceremonies; and any days the state board of education may designate, following the proclamation by the governor, shall be school holidays;

(10) To erect and maintain on each schoolhouse or school grounds a suitable flagstaff or flagpole, and display thereon the flag of the United States of America on all days, except during inclement weather, when the school is in session; and for each Veterans Day, each school in session shall conduct and observe an appropriate program of at least one (1) class period remembering and honoring American veterans;

(11) To prohibit entrance to each schoolhouse or school grounds, to prohibit loitering in schoolhouses or on school grounds and to provide for the removal from each schoolhouse or school grounds of any individual or individuals who disrupt the educational processes or whose presence is detrimental to the morals, health, safety, academic learning or discipline of the pupils. A person who disrupts the educational process or whose presence is detrimental to the morals, health, safety, academic learning or discipline of the pupils, or who loiters in schoolhouses or on school grounds, is guilty of a misdemeanor;

(12) To supervise and regulate, including by contract with established entities, those extracurricular activities ~~which~~ that are by definition outside of or in addition to the regular academic courses or curriculum of a public school, and which extracurricular activities shall not be considered to be a property, liberty or contract right of any student, and such extracurricular activities shall not be deemed a necessary element of a public school education, but shall be considered to be a privilege. For the purposes of extracurricular activities, any secondary school located in this state that is accredited by an organization approved through a process defined by the state department of education shall be able to fully participate in all extracurricular activities described in and governed by the provisions of this subsection;

(13) To govern the school district in compliance with state law and rules of the state board of education;

(14) To submit to the superintendent of public instruction not later than July 1 of each year documentation which that meets the reporting requirements of the federal gun-free schools act of 1994 as contained within the federal improving America's schools act of 1994;

(15) To require that all certificated and noncertificated employees hired on or after July 1, 2008, and other individuals who are required by the provisions of section 33-130, Idaho Code, to undergo a criminal history check shall submit a completed ten (10) finger fingerprint card or scan to the department of education no later than five (5) days following the first day of employment or unsupervised contact with students in a K-12 setting, whichever is sooner. Such employees and other individuals shall pay the cost of the criminal history check. If the criminal history check shows that the employee has been convicted of a felony crime enumerated in section 33-1208, Idaho Code, it shall be grounds for immediate termination, dismissal or other personnel action of the district, except that it shall be the right of the school district to evaluate whether an individual convicted of one of these crimes and having been incarcerated for that crime shall be hired. Provided however, that any individual convicted of any felony offense listed in section 33-1208(2), Idaho Code, shall not be hired. For the purposes of criminal history checks, a substitute teacher is any individual who temporarily replaces a certificated classroom educator and is paid a substitute teacher wage for one (1) day or more during a school year. A substitute teacher who has undergone a criminal history check at the request of one (1) district in which he has been employed as a substitute shall not be required to undergo an additional criminal history check at the request of any other district in which he is employed as a substitute if the teacher has obtained a criminal history check within the previous five (5) years. If the district next employing the substitute still elects to require another criminal history check within the five (5) year period, that district shall pay the cost of the criminal history check or reimburse the substitute teacher for such cost. To remain on the statewide substitute teacher list maintained by the state department of education, the substitute teacher shall undergo a criminal history check every five (5) years;

(16) To maintain a safe environment for students by developing a system that cross-checks all contractors or other persons who have irregular contact with students against the statewide sex offender registry, by developing a school safety plan for each school and by meeting annually with emergency first responders to update the plans and discuss emergency exercises and operations;

(17) To provide support for teachers in their first two (2) years in the profession in the areas of: administrative and supervisory support, mentoring, peer assistance and professional development.

SECTION 2. That Chapter 2, 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 33-212, Idaho Code, and to read as follows:

33-212. **AUTHORITY TO CLOSE SCHOOLS TO PREVENT THE SPREAD OF INFECTIOUS DISEASE.** (1) Notwithstanding any provision of law or rule to the contrary, only the following person or entities shall have the authority to close schools or otherwise limit any aspect of school programs or activities to prevent the spread of contagious or infectious disease:

(a) The governor or state board of education, whose authority may apply statewide or to any area of the state; or

(b) A board of school district trustees as provided in section 33-512, Idaho Code, or the board of directors of a public charter school.

(2) Only a person or an entity listed in subsection (1) of this section shall have the authority to require, in schools or during school programs or activities, measures intended to prevent the spread of contagious or infectious disease.

(3) A decision by a person or an entity listed in subsection (1) of this section for schools to remain open or to reopen, or to require or not require measures in schools or during school programs or activities to prevent the spread of contagious or infectious disease, shall not constitute a violation of any order issued by the department of health and welfare pursuant to section 56-1003(7), Idaho Code; a district board of health pursuant to section 39-414(2), Idaho Code; or a city pursuant to section 50-304, 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 3, 2021

CHAPTER 15
(H.B. No. 68)

AN ACT

RELATING TO HIGHER EDUCATION; AMENDING CHAPTER 37, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-3730, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING A POLICY TO PREVENT THE SPREAD OF CONTAGIOUS OR INFECTIOUS DISEASE; AMENDING CHAPTER 21, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-2145, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING A POLICY TO PREVENT THE SPREAD OF CONTAGIOUS OR INFECTIOUS DISEASE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 37, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-3730, Idaho Code, and to read as follows:

33-3730. PROCEDURES TO PREVENT THE SPREAD OF INFECTIOUS DISEASE. (1) Each state institution of higher education must adopt a policy for measures and procedures to prevent the spread of contagious or infectious disease, including temporary closure of the institution or any of its buildings or campuses. Such policy must be adopted in consultation with the state board of education and the district health department of any public health district in which the institution offers in-person classes. Notwithstanding any law or rule to the contrary, once such policy is adopted, only the state board of education, acting in accordance with the policy, has the authority to close an institution or any of its buildings or campuses, to limit its programs or activities, or to require other measures at the institution for the purpose of preventing the spread of contagious or infectious disease.

(2) The state board of education or a state institution of higher education acting in accordance with a policy adopted pursuant to this section may not be held to violate any order issued by the department of health and welfare pursuant to section 56-1003(7), Idaho Code; a district board of health pursuant to section 39-414(2), Idaho Code; or a city pursuant to section 50-304, Idaho Code.

SECTION 2. 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 33-2145, Idaho Code, and to read as follows:

33-2145. PROCEDURES TO PREVENT THE SPREAD OF INFECTIOUS DISEASE. (1) The board of trustees of each community college must adopt a policy for measures and procedures to prevent the spread of contagious or infectious disease, including temporary closure of the college or any of its buildings or campuses. Such policy must be adopted in consultation with the district health department of any public health district in which the college offers in-person classes. Notwithstanding any law or rule to the contrary, once such policy is adopted, only the board of trustees, acting in accordance with the policy, has the authority to close a community college or any of its buildings or campuses, to limit its programs or activities, or to require other measures at the college for the purpose of preventing the spread of contagious or infectious disease.

(2) A community college board of trustees or a community college acting in accordance with a policy adopted pursuant to this section may not be held to violate any order issued by the department of health and welfare pursuant to section 56-1003(7), Idaho Code; a district board of health pursuant to section 39-414(2), Idaho Code; or a city pursuant to section 50-304, 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 3, 2021

CHAPTER 16
(H.B. No. 176)

AN ACT

RELATING TO THE APPROPRIATION TO THE EXECUTIVE OFFICE OF THE GOVERNOR FOR FISCAL YEAR 2021; APPROPRIATING ADDITIONAL MONEYS TO THE EXECUTIVE OFFICE OF THE GOVERNOR FOR FISCAL YEAR 2021; PROVIDING REQUIREMENTS FOR EMERGENCY RENTAL ASSISTANCE; 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 193, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Executive Office of the Governor for the Governor's Emergency Program \$175,746,400 from the Federal COVID-19 Relief Fund to be expended for trustee and benefit payments for the period July 1, 2020, through June 30, 2021.

SECTION 2. EMERGENCY RENTAL ASSISTANCE. The Executive Office of the Governor shall allocate emergency rental assistance funding to the Idaho Housing and Finance Association to be distributed to eligible recipients in compliance with federal requirements and guidelines. Funding shall be allocated to the association on an as-needed basis in increments not to exceed \$10,000,000. The association, notwithstanding any other provision of law to the contrary, shall not process applications in any city or county that received direct federal funding from Section 501 of Division N of the Consolidated Appropriations Act, 2021, P.L. 116-260 until the association verifies that there is no duplication of benefit for the applicant. The

Executive Office of the Governor shall require monthly reporting by the association to the Joint Finance-Appropriations Committee and the Legislative Services Office by the fifth business day of each month. The Executive Office of the Governor shall also require the association to be audited by an independent firm skilled in auditing federal funding programs.

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 3, 2021

CHAPTER 17
(S.B. No. 1027)

AN ACT

RELATING TO THE IDAHO WRONGFUL CONVICTION ACT; AMENDING TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 35, TITLE 6, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE FOR A CLAIM OF COMPENSATION FOR A WRONGFUL CONVICTION, TO PROVIDE CERTAIN PROCEDURES AND CRITERIA FOR A CLAIM, TO PROVIDE CERTAIN IMMUNITY, TO PROVIDE FOR CERTAIN COMPENSATION AND DAMAGES, TO PROVIDE CERTAIN RESTRICTIONS ON DAMAGES, TO PROVIDE FOR COMPUTATION OF DAMAGES, TO PROVIDE FOR HOW DAMAGES ARE PAID, TO PROVIDE THAT CERTAIN DAMAGES SHALL BE TAX-EXEMPT, TO PROVIDE FOR A CERTIFICATE OF INNOCENCE, AND TO PROVIDE FOR THE CREATION OF THE INNOCENCE FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Title 6, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 35, Title 6, Idaho Code, and to read as follows:

CHAPTER 35
IDAHO WRONGFUL CONVICTION ACT

6-3501. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Wrongful Conviction Act."

6-3502. CLAIM OF COMPENSATION FOR WRONGFUL CONVICTION. (1) As used in this chapter, "claimant" means a person convicted and subsequently imprisoned for one (1) or more crimes that such person did not commit.

(2) If he meets the requirements of this chapter, a claimant may bring a civil action against the state of Idaho for wrongful conviction. The claimant shall prevail if he establishes each of the following requirements by a preponderance of the evidence:

- (a) The claimant was convicted of a felony in this state and subsequently imprisoned;
- (b) The claimant did not commit the crime for which he was convicted;
- (c) The claimant did not commit the acts that were the basis of the conviction;
- (d) The claimant did not aid, abet, or act as an accomplice or accessory to either the acts or to a person who committed the acts that were the basis for the conviction;

- (e) The claimant did not commit an included offense of the crime for which he was imprisoned;
- (f) The claimant establishes that his conviction was reversed or vacated and either:
 - (i) The claimant was not retried and the charges were dismissed; or
 - (ii) The claimant was retried and was found not guilty; and
- (g) The claimant establishes that the basis for reversing or vacating the conviction was not legal error unrelated to his factual innocence.
- (3) A claimant shall not prevail on a claim brought pursuant to this chapter if the state shows by a preponderance of the evidence that a claimant pled guilty with the specific intent to protect another party from prosecution for the underlying conviction that forms the basis for the claim.
- (4) (a) A claimant convicted, imprisoned, and released from custody on or after the effective date of this chapter shall commence an action under this section within a period of two (2) years after:
 - (i) The conviction was reversed or vacated and the charges were dismissed; or
 - (ii) The claimant was retried and found not guilty.
- (b) A claimant convicted, imprisoned, and released from custody before the effective date of this chapter must commence an action under this section within two (2) years of the effective date of this chapter.
- (5) A claimant shall be entitled to a hearing in district court as expeditiously as possible after the filing of a claim.
- (6) If a person dies prior to filing or during the pendency of a claim under this section, the person's estate may file or maintain a claim pursuant to this section.
- (7) All provisions of existing law relating to absolute or qualified immunity shall apply to an action brought pursuant to the provisions of this section.

6-3503. COMPENSATION. (1) In an action brought pursuant to section 6-3502, Idaho Code, damages awarded shall be:

- (a) (i) Sixty-two thousand dollars (\$62,000) for each year of imprisonment; or
 - (ii) Seventy-five thousand dollars (\$75,000) for each year of imprisonment if the claimant was imprisoned on death row; and
 - (b) No less than twenty-five thousand dollars (\$25,000) for each year the person was on parole or no less than twenty-five thousand dollars (\$25,000) for each year the person was required to register as a sex offender, whichever period of time was greater.
- (2) Compensation awarded under subsection (1) of this section shall be computed on a pro rata basis, with damages computed according to the number of days the claimant was imprisoned, on parole, or required to register as a sex offender due to the conviction that is the subject of the action. For purposes of the pro rata calculation, three hundred sixty-five (365) days equals one (1) year. The burden is on the claimant to establish the number of days he was imprisoned, on parole, or required to register as a sex offender.
- (3) The claimant must establish the damages he is seeking under subsections (1), (2), and (4) of this section and the basis for those damages. Awards shall be paid from the innocence fund created pursuant to section 6-3505, Idaho Code. Any award of damages shall not accrue post-judgment interest, and the provisions of section 28-22-104, Idaho Code, shall not apply to such damages. A court shall not award, and a claimant shall not receive, compensation for any period of imprisonment during which the claimant was serving a sentence for a conviction of another offense for which the claimant was lawfully convicted and imprisoned. The claimant shall not receive compensation for any period of time that he was on parole or required to register as a sex offender during which the claimant was paroled

or required to register as a sex offender for another offense for which the claimant was lawfully convicted.

(4) In addition to the damages awarded pursuant to subsection (1) of this section, the claimant may be entitled to the following:

(a) Reasonable attorney's fees and costs incurred in the action brought pursuant to this chapter not to exceed a total of twenty-five thousand dollars (\$25,000), unless a greater reasonable total is authorized by the court upon a finding of good cause shown; and

(b) Reentry services offered through the department of correction, as applicable.

(5) If a claimant in a separate civil action related to the wrongful conviction has won a monetary judgment against, or entered into a settlement agreement with, the state or any political subdivision, the amount of any such award or settlement collected by the claimant, less attorney's fees and litigation costs, shall be deducted from the sum of money to which the claimant is entitled to under this section. If a claimant first receives compensation under this section and then in a separate civil action wins a monetary judgment against, or enters into a settlement agreement with, the state or any political subdivision related to the wrongful conviction, the claimant shall reimburse the state. The reimbursement shall be for the sum of the monetary payment awarded under this section, less attorney's fees and litigation costs, up to the amount of the award or settlement in the civil action. If a claimant first receives compensation under this section and then in a separate civil action related to the wrongful conviction wins a monetary judgment against, or enters into a settlement agreement with, the state or any political subdivision, the claimant shall notify and reimburse the state of such compensation.

(6) Any damages awarded pursuant to subsection (1) of this section shall be tax-exempt in the state of Idaho.

6-3504. CERTIFICATE OF INNOCENCE. If the court finds that the claimant is entitled to a judgment pursuant to section 6-3502, Idaho Code, it shall enter a certificate of innocence finding that the claimant was innocent of all crimes for which the claimant was mistakenly convicted.

6-3505. INNOCENCE FUND CREATED. There is hereby created in the state treasury the innocence fund. The fund shall consist of moneys that may be provided by legislative appropriation and any reimbursements made to the state by claimants. The state treasurer shall invest the idle moneys of the fund, and the interest earned on such investments shall be retained by the fund. Moneys in the fund are continuously appropriated to be used solely for carrying out the provisions of this chapter.

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 5, 2021

CHAPTER 18
(H.B. No. 28)

AN ACT

RELATING TO THE JUVENILE CORRECTIONS ACT; AMENDING SECTION 20-501, IDAHO CODE, TO REVISE LEGISLATIVE INTENT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 20-502, IDAHO CODE, TO DEFINE TERMS, TO REVISE DEFINITIONS, AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 39-1202, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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

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

20-501. LEGISLATIVE INTENT. (1) It is the policy of the state of Idaho that the juvenile corrections system will be based on the following principles: accountability, community protection, and competency development. Where a juvenile has been found to be within the purview of the juvenile corrections act, the court shall impose a sentence that will protect the community, hold the juvenile offender accountable for his actions, and assist the juvenile offender in developing skills to become a contributing member of a diverse community. It is the further policy of the state of Idaho that the parents or other legal guardians of the juvenile offender participate in the accomplishment of these goals through participation in counseling and treatment designed to develop positive parenting skills and an understanding of the family's role in the juvenile offender's behavior. It is the further intent of the legislature that the parents of the juvenile offender be held accountable, where appropriate, through monetary reimbursement for supervision and confinement of the juvenile offender, and restitution to victims of the juvenile offender's delinquent acts. In enacting this legislation, the legislature finds that the juvenile corrections system should encompass the following aspects: diversion, day treatment, community programs, observation and assessment programs, probation services, secure facilities, ~~after-care~~ aftercare, and assistance to counties for juvenile offenders not committed to the custody of the department of juvenile corrections.

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

(a) Diversion. An alternative to formal prosecution of a juvenile offense. Diversions seek to hold a juvenile accountable for his actions through various interventions while redirecting youth away from formal processing in the juvenile justice system.

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

(c) Day treatment. Day treatment programs would be are time-limited nonresidential treatment and educational programs. Included in these programs would may be trackers who would provide intensive supervision of juvenile offenders through daily contact and by counseling juvenile offenders regarding employment, education, courts, family, and life skills. Nonresidential alcohol and drug programs would provide outpa-

tient assessment and counseling for juvenile offenders with substance abuse problems.

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

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

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

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

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

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

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

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

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

(6f) Provide for a diversity of innovative and effective programs through research on delinquent behavior and the continuous evaluation of correctional programs. Innovative and effective programs should be evidence-based, as demonstrated through empirical research.

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

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

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

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

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

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

(2) "Assessment" means a comprehensive and individualized examination of the mental health, substance use, or other needs for a juvenile that typically results in treatment interventions and recommendations.

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

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

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

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

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

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

(89) ~~"Diversion" means the utilization of local community resources, churches, counseling for the juvenile offender and/or family, substance abuse counseling, informal probation, community service work, voluntary restitution, or any other available service or program as an alternative to the filing of a petition with the juvenile court an alternative to formal prosecution of a juvenile offense. Diversion describes intervention approaches that redirect juveniles away from formal court processing in the juvenile justice system while applying the principles of the balanced approach and restorative justice. Diversion strategies take place at arrest, referral, intake, or prior to or after the filing of a petition and should provide the same array of services as formal court processing, except for detention. Diversion may be appropriate for low-risk or moderate-risk offenders as informed by results of a valid screening instrument.~~

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

(101) "Juvenile" means a person less than eighteen (18) years of age or who was less than eighteen (18) years of age at the time of any alleged act, omission or status.

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

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

(134) "Juvenile offender" means a person under the age of eighteen (18) years at the time of any act, omission or status and who has been adjudicated as being within the purview of this chapter.

(145) "Legal custody" means the relationship created by the court's decree which that imposes upon the custodian responsibilities of physical pos-

session of the juvenile offender, the duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care.

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

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

(18) "Screening" means a brief process, typically using a validated tool to identify juveniles who warrant immediate attention, intervention, or a more comprehensive assessment. Screening tools help guide and identify juveniles who might be appropriate for diversion or who need comprehensive mental health or substance use assessments.

(179) "Secure facility" means any architecturally secure residential facility that provides twenty-four (24) hour supervision and confinement for juvenile offenders committed to the custody of the department.

(1820) "Staff-secure facility" means a nonarchitecturally secure residential facility with awake staff twenty-four (24) hours a day, seven (7) days a week for intensive supervision of juvenile offenders.

(21) "Validated risk/needs assessment" means a validated instrument that measures a juvenile's criminal risk factors and specific needs that, if addressed, should reduce the juvenile's likelihood to reoffend.

(1922) "Work program" means a public service work project which that employs juvenile offenders at a reasonable wage for the purpose of reimbursing victims of the juvenile offender's delinquent behavior.

SECTION 3. That Section 39-1202, Idaho Code, be, and the same is hereby amended to read as follows:

39-1202. DEFINITIONS. For the purposes of this chapter:

(1) "Board" means the Idaho board of health and welfare.

(2) "Child care" means that care, control, supervision or maintenance of children for twenty-four (24) hours a day which is provided as an alternative to parental care.

(3) "Child" means an individual less than eighteen (18) years of age who is not enrolled in an institution of higher education.

(4) "Children's agency" means a person who operates a business for the placement of children in foster homes or for adoption in a permanent home and who does not provide child care as part of that business. Children's agency does not include a licensed attorney or physician assisting or providing natural and adoptive parents with legal services or medical services necessary to initiate and complete adoptive placements.

(5) "Children's camp" means a program of child care at a location away from the child's home which is primarily recreational and includes the overnight accommodation of the child and is not intended to provide treatment, therapy or rehabilitation for the child.

(6) "Children's institution" means a person who operates a residential facility for children not related to that person if that person is an individual, for the purpose of providing child care. Children's institutions include, but are not limited to, foster homes, maternity homes, children's therapeutic outdoor programs, or any facilities providing treatment, therapy or rehabilitation for children. Children's institutions do not include: (a) facilities which provide only daycare as defined in chapter 11, title 39, Idaho Code; (b) facilities and agencies including hospitals, skilled nursing facilities, intermediate care facilities, and intermediate care facili-

ties for people with intellectual disabilities licensed pursuant to chapter 13, title 39, Idaho Code; (c) day schools; (d) individuals acting in an advisory capacity, counseling a child in a religious context, and providing no child care associated with the advice; (e) the occasional or irregular care of a neighbor's, relative's or friend's child or children by a person not ordinarily engaged in child care.

(7) "Children's residential care facility" means a children's institution, excluding:

- (a) Foster homes;
- (b) Residential schools;
- (c) Children's camps.

No facility expressly excluded from the definition of a children's institution is included within the definition of a children's residential care facility.

(8) "Children's therapeutic outdoor program" is a program which is designed to provide behavioral, substance abuse, or mental health services to minors in an outdoor setting. This does not include children's camps, church camps, or other outdoor programs primarily designed to be educational or recreational, such as Boy Scouts, Girl Scouts, 4-H or sports camps.

(9) "Continued care" means the ongoing placement of an individual in a foster home, children's residential care facility, or transitional living placement who reaches the age of eighteen (18) years but is less than twenty-one (21) years of age.

(10) "Day school" means a public, private, parochial or secular facility offering an educational program in which the children leave the facility each day at the conclusion of the academic, vocational or school supervised activities.

(11) "Department" means the state department of health and welfare.

(12) "Director" means the director of the department of health and welfare.

(13) "Foster care" means child care by a person not related to the child, in lieu of parental care, in a foster home.

(14) "Foster home" means a home which accepts, for any period of time, with or without compensation, one (1) or more children who are not related to the foster parent as members of the household for the purpose of providing substitute parental care.

(15) "Group care" means foster care of a number of children for whom child care in a family setting is not available or appropriate, in a dormitory or cottage type setting, characterized by activities and discipline of a more regimented and less formal nature than found in a family setting.

(16) "Juvenile detention" is as defined in section 20-502(67), Idaho Code, of the juvenile corrections act.

(17) "Juvenile detention center" means a facility established pursuant to sections 20-517 and 20-518, Idaho Code.

(18) "Person" includes any individual, group of individuals, association, partnership, limited liability company or corporation.

(19) "Placement" means finding a suitable licensed foster home or suitable adoptive home for a child and completing the arrangements for a child to be accepted into and adjusted to such home.

(20) "Relative" means a child's grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, first cousin, sibling and half-sibling.

(21) "Representative" means an employee of the state department of health and welfare.

(22) "Residential facility" means any facility where child care is provided, as defined in this section, and which provides day and night accommodation.

(23) "Residential school" means a residential facility for children which:

(a) Provides a planned, scheduled, regular, academic or vocational school program for students in the elementary, middle or secondary grades as defined in section 33-1001, Idaho Code; and

(b) Provides services substantially comparable to those provided in nonresidential public schools where the primary purpose is the education and academic pursuits of the students; and

(c) Does not seek, receive or enroll students for treatment of such special needs as substance abuse, mental illness, emotional disturbance, developmental disability or intellectual disability; and

(d) Is not:

(i) A college or university; or

(ii) A children's camp as defined in this section; or

(iii) A public or private day school in which the children leave the facility each day at the conclusion of the academic, vocational and school supervised activities.

(24) "Transitional living" means living arrangements and aftercare services for children, or as continued care, to gain experience living on their own in a supportive and supervised environment prior to emancipation.

Approved March 8, 2021

CHAPTER 19
(H.B. No. 26)

AN ACT

RELATING TO THE JUVENILE CORRECTIONS ACT; AMENDING SECTION 20-516, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE APPREHENSION, RELEASE, AND DETENTION OF JUVENILES AND TO REVISE TERMINOLOGY; AMENDING SECTION 20-520, IDAHO CODE, TO REMOVE REFERENCE TO A HABITUAL STATUS OFFENDER AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 20-521, IDAHO CODE, RELATING TO HABITUAL STATUS OFFENDERS; AND AMENDING SECTION 20-549, IDAHO CODE, TO REMOVE REFERENCE TO A HABITUAL STATUS OFFENDER AND TO REVISE TERMINOLOGY.

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

SECTION 1. That Section 20-516, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

(c) When there are reasonable grounds to believe the juvenile has committed a status offense. Status offenses are truancy, running away from or being beyond the control of parents, guardian, or legal custodian, alcohol age violations under section 18-1502(e), Idaho Code, and curfew violations. Status offenders shall not be placed in any jail facility, including juvenile detention centers, but instead may be placed in juvenile shelter care facilities, except in the case of runaways, when there is a specific detention request from a foreign jurisdiction to hold the juvenile pending transportation arrangements, and a peace

officer may, in his discretion, notify the parent, guardian or legal custodian. In the event of an alcohol age infraction under section 18-1502(e), Idaho Code, the status offense under this section shall be in addition to the infraction.

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

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

(4) When a juvenile is not released, he shall be taken forthwith to the court or place of detention specified by the court ~~and then~~. The juvenile shall, not later than twenty-four (24) hours, excluding Saturdays, Sundays and holidays, ~~shall~~ be brought before the court for a detention hearing to determine where the juvenile will be placed until the next hearing. Status offenders shall not be placed in any jail facility, including juvenile detention centers, but instead may be placed in juvenile shelter care facilities.

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

- (a) Parents of the juvenile;
- (b) Relatives of the juvenile;
- (c) Foster care;
- (d) Group care;
- (e) A juvenile detention center, except in the case of a status offender; or
- (f) ~~Community-based~~ Diversion programs.

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

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

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

(8) A juvenile taken into detention for an offense shall be fingerprinted and photographed. Fingerprints and photographs taken of juveniles shall be forwarded to the appropriate law enforcement agency and filed with the bureau of criminal identification of the Idaho state police, which shall create a juvenile offender fingerprint file and enter the fingerprint data into the automated fingerprint identification system. If the court finds good cause, it may order the fingerprints and photographs of the juvenile offender expunged.

(9) Peace officers' records of juveniles shall be kept separate from records of adults and shall be subject to disclosure according to chapter 1, title 74, Idaho Code.

SECTION 2. That Section 20-520, Idaho Code, be, and the same is hereby amended to read as follows:

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

(a) Place the juvenile offender on formal probation for a period not to exceed three (3) years from the date of the order, except the court may place a juvenile offender on formal probation for a period not to exceed the juvenile offender's twenty-first birthday if the court finds that the juvenile offender has committed a crime of a sexual nature. If a juvenile offender is committed to the Idaho department of juvenile corrections pursuant to paragraph (s) of this subsection, the court may place the juvenile offender on probation from the date of sentencing up to three (3) years past the date of release from custody or the juvenile offender's twenty-first birthday, whichever occurs first; provided the court shall conduct a review hearing within thirty (30) days following release of the juvenile offender from the department of juvenile corrections in order to determine the conditions and term of such probation;

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

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

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

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

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

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

(g) The court may suspend or restrict the juvenile offender's driving privileges for such periods of time as the court deems necessary, and the court may take possession of the juvenile offender's driver's license. The juvenile offender may request restricted driving privileges during a period of suspension, which the court may allow if the juvenile offender shows by a preponderance of evidence that driving privileges are necessary for his employment or for family health needs;

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

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

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

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

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

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

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

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

(p) The court shall assess a twenty dollar (\$20.00) detention/probation training academy fee against the juvenile offender for every petition filed where there has been an adjudication that the juvenile offender is within the purview of this chapter. All moneys raised pursuant to this paragraph shall be transmitted by the court for deposit in the juvenile corrections fund, which is created in section 20-542, Idaho Code;

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

(r) Additionally, the court may assess a monthly probation supervision fee that shall be an amount not more than the maximum monthly misdemeanor probation supervision fee set forth in section 31-3201D, Idaho Code, per month, or such lesser sum as determined by the administrative judge of the judicial district, against the juvenile offender placed on probation. The amount of the monthly probation supervision fee shall be paid to the clerk of the district court who shall deposit such fee into the county juvenile probation fund, which is hereby created, in each county or, at the option of the board of county commissioners, deposited in the county justice fund to be used for county juvenile probation services. Moneys from this fee may be accumulated from year to year and shall be expended exclusively for county juvenile probation services and related purposes;

(s) Commit the juvenile offender to the legal custody of the department of juvenile corrections for an indeterminate period of time, not to exceed the juvenile offender's nineteenth birthday, unless the custody review board determines that extended time in custody is necessary to address competency development, accountability, and community protection; provided however, that no juvenile offender shall remain in the custody of the department beyond the juvenile offender's twenty-first birthday. The department shall adopt rules implementing the custody review board and operations and procedures of such board. Juvenile offenders convicted as adults and placed in the dual custody of the department of juvenile corrections and the state board of correction under section 19-2601A, Idaho Code, are under the retained jurisdiction of the court and are not within the purview of the custody review board;

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

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

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

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

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

(6) The clerk of the district court, with the approval of the administrative district judge, may use the procedures set forth in section 19-4708, Idaho Code, for the collection of other debts owed to the court by the juvenile offender.

SECTION 3. That Section 20-521, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 20-549, Idaho Code, be, and the same is hereby amended to read as follows:

20-549. CURFEW VIOLATIONS -- CITATION -- NOTIFICATION. Violation by a juvenile offender of a curfew established by a municipal or county ordinance shall constitute an infraction and shall be ~~is~~ punishable by a fine of one hundred fifty dollars (\$150). Fines shall be deposited in the county juvenile justice fund of the county where the violation occurred, or if such a fund has not been established, then in the current county expense account for juvenile corrections purposes in the county where the violation occurred. Detention of a juvenile offender in a county jail or detention center for violation of a curfew is prohibited, ~~unless the juvenile offender is an habitual status offender as defined in section 20-521, Idaho Code.~~

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

Approved March 8, 2021

CHAPTER 20
(H.B. No. 5)

AN ACT

RELATING TO DISTRACTED DRIVING; AMENDING SECTION 49-1401A, IDAHO CODE, TO PROVIDE FOR HANDS-FREE USE OF CERTAIN DEVICES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-1401A, Idaho Code, be, and the same is hereby amended to read as follows:

49-1401A. DISTRACTED DRIVING. (1) As used in this section:

(a) "Mobile electronic device" means a cellular telephone; broadband personal communication device; two-way messaging device; text messaging device; pager; personal digital assistant; laptop computer; computer tablet; stand-alone computer; portable computing device; mobile device with a touchscreen display that is designed to be worn; electronic games; equipment that is capable of playing a video or recording or transmitting video; or any similar electronic device that is used to initiate, receive, or display communication or information. "Mobile electronic device" does not include a radio designed for the citizens band radio service or the amateur radio service of the federal communications commission or a commercial two-way radio communications device, an information or communication system installed within a vehicle, a subscription-based emergency communication device, or a prescribed medical device.

(b) "Operate" means to drive or assume physical control of a motor vehicle upon a public way, street, road, or highway, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. "Operate" does not include a motor vehicle that is lawfully parked or that has pulled to the side of or off the road at a location where it is legal to do so and where the vehicle remains stationary.

(2) Except as provided in this subsection, a person shall not operate a motor vehicle while using a mobile electronic device. The provisions of this subsection shall not apply to:

(a) A law enforcement officer, firefighter, emergency medical technician, paramedic, operator of an authorized emergency vehicle, or similarly engaged paid or volunteer public safety first responder during the performance of that person's official duties, and a public or consumer-owned utility employee or contractor acting within the scope of that person's employment when responding to a utility emergency;

(b) The use of a mobile electronic device for emergency purposes, including a text messaging device to contact a 911 system; an emergency call to a law enforcement agency, health care provider, fire department, or other emergency services agency or entity; reporting a fire, traffic accident, serious road hazard, or medical or hazardous materials emergency to appropriate authorities; reporting the operator of another motor vehicle who is driving in a reckless or otherwise unsafe manner or who appears to be driving under the influence of alcohol or drugs; or reporting a crime;

(c) The hands-free use of a global positioning or navigation system feature of a mobile electronic device, provided that the operator of the vehicle is not manually entering information into the global positioning or navigation system feature of the device;

(d) The selection of a telephone number or name for the purpose of making or receiving a telephone call, provided that the action is performed through one-touch access or by voice command;

(e) The use of a mobile electronic device in a voice-operated or hands-free mode if the operator of the motor vehicle does not use his hands to operate the device, except through one-touch activation or deactivation of a feature or function of the device;

(f) The use of a mobile electronic device by a governmental or commercial user during the performance of that person's official duties, as long as the mobile electronic device is being used in a similar manner as a commercial two-way radio communication device; or

(g) The use of a mobile electronic device in a farming or ranching operation to assist in the movement of farm tractors, farm equipment, and implements of husbandry from one farm operation to another.

(3) No person shall operate a motor vehicle while watching motion upon the screen of a mobile electronic device, other than motion related to the functioning or navigation of the vehicle.

(4) A violation of this section shall be a moving violation and shall be an infraction punishable by a fine of seventy-five dollars (\$75.00) for a first offense and one hundred fifty dollars (\$150) for a second offense within a three (3) year period. For each subsequent offense within a three (3) year period, the offender shall be punished by a fine of three hundred dollars (\$300).

(5) A court may suspend a person's driver's license for up to ninety (90) days if the person has three (3) or more convictions for violations of this section within a three (3) year period.

(6) Nothing contained in this section shall be construed to authorize seizure of a mobile electronic device by any law enforcement agency.

(7) A conviction under this section for a first offense shall not result in violation point counts as prescribed in section 49-326, Idaho Code.

(8) A conviction under this section for a first offense that does not involve an accident may not be used to make an adverse eligibility decision by an insurer or for the purpose of establishing rates of motor vehicle insurance charged by an insurer.

(9) A law enforcement officer enforcing the provisions of this section is hereby authorized to utilize a violation of this section as the primary or sole reason for initiating a traffic stop or issuing a citation to a driver.

(10) The state preempts the field of regulating the use of mobile electronic devices in motor vehicles while driving, and this section supersedes any local laws, ordinances, orders, rules, or regulations enacted by any political subdivision or municipality to regulate the use of a mobile electronic device by the operator of a motor vehicle.

(11) This section shall be effective July 1, 2020, provided that only warnings and no infractions shall be issued under this section prior to January 1, 2021.

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 8, 2021

CHAPTER 21
(S.B. No. 1016)

AN ACT

RELATING TO THE RESPIRATORY CARE PRACTICE ACT; REPEALING CHAPTER 43, TITLE 54, IDAHO CODE, RELATING TO THE RESPIRATORY CARE PRACTICE ACT; AND AMENDING TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 43, TITLE 54, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE TERMS, TO ESTABLISH A LICENSURE BOARD, TO PROVIDE FOR POWERS AND DUTIES OF THE LICENSURE BOARD, TO ESTABLISH A PERMIT REQUIREMENT, TO PROVIDE FOR POLYSOMNOGRAPHY-RELATED RESPIRATORY CARE, TO ESTABLISH REQUIREMENTS FOR LICENSURE, TO PROVIDE FOR ISSUANCE OF LICENSES AND PERMITS, TO PROVIDE FOR LICENSE OR PERMIT EXPIRATION AND RENEWAL, TO PROVIDE FOR LICENSE OR PERMIT SUSPENSION, REVOCATION, OR REFUSAL TO RENEW, TO ESTABLISH EXEMPTIONS, TO PROVIDE CERTAIN PENALTIES FOR MISREPRESENTATION, TO PROVIDE FOR PENALTIES, AND TO PROVIDE SEVERABILITY.

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

SECTION 1. That Chapter 43, 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 43, Title 54, Idaho Code, and to read as follows:

CHAPTER 43
RESPIRATORY CARE PRACTICE ACT

54-4301. SHORT TITLE. This act shall be known and may be cited as the "Respiratory Care Practice Act."

54-4302. LEGISLATIVE INTENT. To promote the highest degree of professional conduct on the part of persons providing respiratory care to the public and to assure the availability of respiratory care services of high quality to persons in need of such services, it is the intent of the legislature to provide for the licensure and regulation of persons offering respiratory care services to the public.

54-4303. DEFINITIONS. As used in this chapter:

- (1) "Board" means the state board of medicine.
- (2) "Certified respiratory therapist" or "CRT" means the professional designation earned by a person who has successfully completed the entry level examination required by the board.
- (3) "Licensure board" means the licensure board established by this chapter.
- (4) "Polysomnographic technician" means a person who holds a permit and meets requirements as set forth in section 54-4307, Idaho Code.
- (5) "Polysomnographic technologist" means a person who holds a permit and meets requirements as set forth in section 54-4307, Idaho Code.
- (6) "Polysomnography" means the process of analysis, attended monitoring, and recording of physiologic data during sleep and wakefulness to assist in the assessment and diagnosis of sleep/wake disorders and other disorders, syndromes, and dysfunctions that are sleep-related, manifest during sleep, or disrupt normal sleep/wake cycles and activities.
- (7) "Polysomnography-related respiratory care services" means the limited practice of respiratory care in the provision of polysomnography services.
- (8) "Practice of respiratory care" means the provision of cardiopulmonary care services as directed by a qualified health care practitioner licensed in the state, including but not limited to the diagnostic and therapeutic use of the following:
 - (a) Except for the purpose of anesthesia, administration of medical gases, aerosols, and humidification;
 - (b) Environmental control mechanisms and hyperbaric therapy;
 - (c) Pharmacologic agents related to respiratory care procedures;
 - (d) Mechanical or physiological ventilatory support;
 - (e) Bronchopulmonary hygiene;
 - (f) Cardiopulmonary resuscitation;
 - (g) Maintenance of artificial airways;
 - (h) Specific diagnostic and testing techniques employed in the medical management of patients to assist in diagnosis, monitoring, treatment, and research of pulmonary abnormalities, including measurement of ventilatory volumes, pressures, and flows, collection of specimens of blood and blood gases, expired and inspired gas samples, respiratory secretions, and pulmonary functioning testing;
 - (i) Hemodynamic and other related physiologic measurements of the cardiopulmonary system;
 - (j) Accepting and carrying out a practitioner's written, verbal, or telephonic prescription or order specifically relating to respiratory care in a hospital or other health care setting; and
 - (k) Functioning in situations of patient contact requiring individual judgment in administering respiratory care under the general supervision of a qualified practitioner.
- (9) "Registered respiratory therapist" or "RRT" means the professional designation earned by a person who has successfully completed the written registry and clinical simulation examinations administered by the national board for respiratory care.
- (10) "Respiratory care" means the treatment, management, diagnostic testing, monitoring, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system.

(11) "Respiratory care practitioner" means a person who has been issued a license or permit by the board under the provisions of this chapter to practice respiratory care under the general supervision of a licensed physician or other authorized licensed health care professional.

(12) "Sleep disorder center or laboratory" means a facility for sleep-related disorders that provides polysomnography and is under the supervision of a physician or medical director licensed in the state of Idaho.

(13) "Written registry and clinical simulation examinations" means the certification examinations administered by a board-approved national accrediting organization.

54-4304. LICENSURE BOARD. (1) The licensure board shall consist of five (5) members appointed by the board, including three (3) licensed respiratory therapists, one (1) licensed respiratory therapist who is also a permitted polysomnographic technologist, and one (1) member of the public. All members shall be residents of Idaho at the time of their appointments and for their terms of service.

(2) In making appointments to the licensure board, the board shall give consideration to recommendations made by the Idaho society for respiratory care, the Idaho sleep professionals association, or other professional organizations or individuals.

(3) Licensure board members shall serve terms not to exceed three (3) years. No person shall be appointed to serve more than two (2) terms. In the event of death, resignation, or removal of any member before the expiration of the term to which appointed, the vacancy shall be filled for the unexpired portion of the term in the same manner as the original appointment.

(4) The board may, upon recommendation of the licensure board, or upon its own motion, remove any member of the licensure board, for cause, prior to the expiration of the member's term.

(5) The licensure board shall at least annually hold a meeting and elect a chairperson who shall preside at meetings of the licensure board. In the event the chairperson is not present at any licensure board meeting, the licensure board may by majority vote of the members present appoint a temporary chairperson.

(6) A majority of the members of the licensure board shall constitute a quorum. Other meetings may be convened at the call of the chairperson or the written request of any two (2) licensure board members.

(7) Each member of the licensure board shall be compensated as provided in section 59-509(n), Idaho Code.

54-4305. BOARD OF MEDICINE AND LICENSURE BOARD -- POWERS AND DUTIES -- FUNDS. (1) The board shall administer, coordinate, and enforce the provisions of this chapter and, for that purpose, may hire such employees as may be necessary. The licensure board shall make recommendations to, and consult with, the board concerning qualification of applicants for licensure, issuance of licenses, revocation of licenses, and rules to be promulgated under this chapter.

(2) The board may, upon recommendation of the licensure board, adopt rules pursuant to chapter 52, title 67, Idaho Code, necessary to implement the provisions of this chapter, including but not limited to rules relating to professional licensure examination, the establishment of ethical standards of practice, disciplinary proceedings, and license suspension or revocation for persons holding a license or permit to practice in this state under the provisions of this chapter.

(3) The licensure board shall hold meetings, conduct hearings, and keep records and minutes as are necessary to carry out its functions.

(4) All fees received under the provisions of this chapter shall be deposited in the state treasury to the credit of the state board of medicine fund created in section 54-1809, Idaho Code. All costs and expenses incurred

by the board and licensure board under the provisions of this chapter shall be a charge against and paid from said fund for such purposes. The funds collected pursuant to this chapter shall be immediately available for the administration of this chapter. In no instance shall the state board of medicine fund be obligated to pay any claims that, in aggregate with claims already allowed, exceed the income to the state board of medicine fund that has been derived from the application of this chapter. Moneys paid into the state board of medicine fund pursuant to this chapter are hereby continuously appropriated to the board for expenditure in the manner prescribed in this chapter to defray the expenses of the board and licensure board in carrying out and enforcing the provisions of this chapter.

54-4306. LICENSE OR PERMIT REQUIRED -- PROVISIONAL LICENSE OR PERMIT. (1) Except as otherwise provided in this chapter, it shall be unlawful for any person to practice or offer to practice respiratory care or polysomnography-related respiratory care or for a person or entity to represent a person to be a respiratory care or polysomnography-related respiratory care practitioner unless such person is licensed or holds a valid permit under the provisions of this chapter or is exempt from the requirements of this chapter.

(2) The board may issue provisional licenses or permits to graduates of approved respiratory care or polysomnography-related respiratory care education programs seeking to qualify for licensure pursuant to this chapter. Provisional licenses and permits shall be issued upon such terms and conditions as the board may determine necessary to ensure safe and qualified performance of respiratory care or polysomnography-related respiratory care functions. The issuance of a provisional license or permit shall be as set forth in this chapter and pursuant to board rule.

54-4307. POLYSOMNOGRAPHY-RELATED RESPIRATORY CARE. (1) Only persons who are licensed as respiratory care practitioners or who are exempt from licensure pursuant to section 54-4312, Idaho Code, or who hold a permit issued by the board under the provisions of this chapter may provide polysomnography-related respiratory care services.

(2) An applicant for a permit to provide polysomnography-related respiratory care services must:

(a) Submit an application to the board on forms prescribed by the board and pay the permit fee required under this chapter;

(b) Not have been convicted of an offense or disciplined by a licensing body in a manner that bears, in the judgment of the board, a demonstrable relationship to the provision of polysomnography-related respiratory care services;

(c) Be a high school graduate or have passed a general educational development (GED) examination and earned a GED certificate; and

(d) Be currently certified in cardiopulmonary resuscitation.

(3) A polysomnographic technologist applicant must have successfully completed the certification examination approved by the board.

(4) A polysomnographic technician applicant must have successfully completed a polysomnography program of not less than one (1) year duration, associated with a nationally accredited educational facility.

54-4308. REQUIREMENTS FOR LICENSURE. (1) A person who meets the requirements for licensure under the provisions of this section and who is not exempt from the requirements of this chapter pursuant to section 54-4312, Idaho Code, shall apply to the licensure board for the issuance of a license. The completed application shall be on a form provided by the board.

(2) The board shall issue a license to an applicant if the applicant makes a satisfactory showing to the licensure board that he has:

- (a) Not been convicted of a crime deemed relevant in accordance with section 67-9411(1), Idaho Code;
- (b) Not been subjected to disciplinary action in any state or territory of the United States or in any foreign country arising from a showing of gross negligence or intentional misconduct directly related to the provision of respiratory care; and
- (c) Successfully received respiratory care credentialing by a board-approved national accrediting organization.

54-4309. ISSUANCE OF LICENSE OR PERMIT. The board shall issue a license to any person who meets the requirements of this chapter upon payment of the prescribed fees. The board may, in its discretion, by rule or regulation, provide for the proration of fees charged in conjunction with the initial application by a person for a license if such license shall, upon issuance, remain valid for less than one (1) full calendar year before the required renewal date as provided for in section 54-4310, Idaho Code.

54-4310. LICENSE OR PERMIT EXPIRATION AND RENEWAL. (1) A license or permit issued under the provisions of this chapter shall be subject to renewal every one (1) or two (2) years and shall expire unless renewed in the manner prescribed by the rules of the licensure board upon payment of a renewal fee.

(2) Each individual applicant for renewal of an active license shall, on or before the expiration of the license, submit satisfactory proof to the licensing board of successful completion of no fewer than twelve (12) hours of board-approved continuing education in addition to any other requirements for renewal.

(3) Upon application, the board shall grant inactive status to the holder of a license who does not practice or provide respiratory care.

(4) The board shall establish the following fees relating to licensing, which fees shall be established in an amount sufficient to defray all costs necessary for the administration of this chapter:

- (a) Initial license and examination fee;
- (b) Renewal of license fee;
- (c) Inactive license fee; and
- (d) Provisional license or permit fee.

(5) No license that has been expired for more than twenty-four (24) months may be renewed. The applicant shall comply with the requirements of section 54-4308, Idaho Code, for obtaining an initial license.

54-4311. SUSPENSION AND REVOCATION OF LICENSE OR PERMIT -- REFUSAL TO RENEW. (1) Subject to the provisions of chapter 52, title 67, Idaho Code, the board may deny a license or permit or refuse to renew a license or permit, may suspend or revoke a license or permit, or may impose probationary conditions if the holder of a license or permit or applicant for a license or permit has been found guilty of conduct that has endangered or is likely to endanger the health, welfare, or safety of the public. Such conduct includes but is not limited to:

- (a) Obtaining a license or permit by means of fraud, misrepresentation, or concealment of material facts;
 - (b) Violating any of the grounds for discipline set forth in the rules established by the board;
 - (c) Being convicted of a crime that would have a direct and adverse bearing on the licensee's or permit holder's ability to practice or perform respiratory care competently;
 - (d) The unauthorized practice of medicine;
 - (e) Violating any provision of this chapter or any of the rules and regulations promulgated by the board under the authority of this chapter;
- or

(f) Being found mentally incompetent by a court of competent jurisdiction or being found mentally incompetent or unfit by the board to provide respiratory care.

(2) A denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a license or permit may be ordered by the board after a hearing in the manner provided by this chapter and the rules adopted by the board.

54-4312. EXEMPTIONS. (1) Nothing in this chapter is to be construed as preventing or restricting the performance of respiratory care or requiring licensure or a permit pursuant to this chapter:

(a) Of any person authorized in this state under any other law who carries out only those professional duties and functions for which such person has been specifically trained and for which professional designations are conferred;

(b) Of certified pulmonary function technologists and registered pulmonary function technologists who carry out only those professional duties and functions for which such persons have been specifically trained and for which such professional designations are conferred;

(c) Of any person employed as a respiratory therapist by the government of the United States or any agency thereof if such person practices or provides respiratory care solely under the direction or control of the organization by which such person is employed;

(d) Of any person actively pursuing in good faith a full-time supervised course of study leading to a degree or certificate in respiratory care in an American medical association accredited or approved educational program, or the equivalent as determined by the board, where the practice or provision of respiratory care by such person is supervised by a respiratory care practitioner or by a licensed physician;

(e) Of any person performing respiratory care in the state for purposes of continuing education, consulting, or training, if these services are performed for no more than thirty (30) days in a calendar year in association with a respiratory care practitioner licensed under this chapter or in association with a licensed physician, if:

(i) The person is licensed as a respiratory care practitioner or the equivalent, as determined by the board, in good standing in another state or the District of Columbia or in a territory of the United States; or

(ii) The person is a certified respiratory therapist or registered respiratory therapist; or

(f) Of any person who administers cardiopulmonary resuscitation in an emergency situation.

(2) A person claiming an exemption under subsection (1) (c) or (1) (e) of this section shall apply for a license or a permit as provided for in this chapter in the event the facts upon which such claim for exemption is based change or cease to exist eliminating the grounds for such claim for exemption. Such application shall be filed with the board as soon as possible after the loss of the claim to exemption but no later than thirty (30) calendar days after the right to the exemption ceases. Such person may practice or perform respiratory care after the loss of such exemption and prior to application for or issuance by the board of a license or permit only under the direct supervision of a respiratory care practitioner or a licensed physician.

(3) A person claiming exemption under the provisions of subsection (1) (d) of this section shall cease to be eligible for such exemption if such person ceases to actively pursue the required course of study for a period of time in excess of one hundred twenty (120) consecutive calendar days and immediately upon receipt of the degree or certificate for which such person pursued the course of study.

(4) The burden of proving the existence of facts entitling a person to an exemption under this section shall be upon the person claiming the exemption.

(5) The provisions of this chapter shall not prohibit hospitals from employing individuals to provide respiratory care services who are exempt from the licensing requirements of this chapter. The provisions of this chapter shall not prohibit any hospital from training qualified personnel to provide respiratory care if the trainee would be exempt under subsection (1) (a) or (1) (d) of this section, provided that said training and respiratory care services are done under the supervision of a licensed physician or a respiratory care practitioner.

54-4313. MISREPRESENTATION -- CONSUMER PROTECTION ACT. (1) The board may bring any action in the district court for a temporary restraining order, preliminary injunction, or permanent injunction against any person who violates the provisions of this chapter, who falsely holds himself out as a respiratory care practitioner, or who practices or provides respiratory care in violation of this chapter.

(2) Any person who falsely holds himself out as a respiratory care practitioner shall be guilty of using a method, act, or practice that is declared to be unlawful as provided in chapter 6, title 48, Idaho Code.

54-4314. PENALTIES. Any person who violates any provision of this chapter shall, upon conviction, be guilty of a misdemeanor.

54-4315. SEVERABILITY. The provisions of this chapter are hereby declared to be severable and if any provision of this chapter or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this chapter.

Approved March 8, 2021

CHAPTER 22
(S.B. No. 1038)

AN ACT

RELATING TO PUBLIC ASSISTANCE; REPEALING SECTION 56-209m, IDAHO CODE, RELATING TO A WEIGHT CONTROL PILOT PROGRAM; REPEALING SECTION 56-236, IDAHO CODE, RELATING TO THE IDAHO HEALTH INSURANCE ACCESS CARD ACT; REPEALING SECTION 56-237, IDAHO CODE, RELATING TO LEGISLATIVE PURPOSE; AMENDING SECTION 56-238, IDAHO CODE, TO REMOVE DEFINITIONS AND TO PROVIDE A CORRECT CODE REFERENCE; REPEALING SECTION 56-241, IDAHO CODE, RELATING TO THE SMALL BUSINESS HEALTH INSURANCE PILOT PROGRAM; REPEALING SECTION 56-242, IDAHO CODE, RELATING TO THE IDAHO HEALTH INSURANCE ACCESS CARD; AND AMENDING SECTION 56-254, IDAHO CODE, TO REMOVE CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 56-209m, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 56-236, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 56-237, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 56-238, Idaho Code, be, and the same is hereby amended to read as follows:

56-238. DEFINITIONS. As used in sections ~~56-236 through 56-242~~ this section and section 56-239, Idaho Code:

(1) "CHIP Plan A" means the existing Idaho children's health insurance program for children eligible under federal title XXI whose families' modified adjusted gross incomes do not exceed one hundred fifty percent (150%) of the federal poverty guidelines.

(2) "CHIP Plan B" means the program created in section 56-239, Idaho Code.

(3) "Department" means the state department of health and welfare.

(4) "Director" means the director of the state department of health and welfare.

(5) ~~"Eligible adult" means a person:~~

~~(a) Over eighteen (18) years of age living in Idaho;~~

~~(b) Whose family's modified adjusted gross income is less than one hundred percent (100%) of the federal poverty guidelines;~~

~~(c) Who is employed full time by a small employer, meaning an employer with two (2) to fifty (50) employees and as such term is defined in section 41-4703, Idaho Code, and who is eligible for health insurance coverage under a small employer health benefit plan regulated under chapter 47, title 41, Idaho Code, or the dependent spouse of such employee; and~~

~~(d) Who does not qualify for comparable or greater assistance through other federal or state health insurance or premium assistance programs.~~

~~(6) "Eligible child" means a child under nineteen (19) years of age living in Idaho whose family's modified adjusted gross income falls within federal poverty guidelines for medicaid, CHIP Plan A or CHIP Plan B.~~

~~(7) "Health benefit plan" means any hospital or medical policy or certificate, any subscriber contract provided by a hospital or professional service corporation, or managed care organization subscriber contract. Health benefit plan does not include policies or certificates of insurance for specific disease, hospital confinement indemnity, accident-only, credit, dental, vision, medicare supplement, long-term care, or disability income insurance, student health benefits only coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, automobile medical payment insurance or nonrenewable short-term coverage issued for a period of twelve (12) months or less.~~

~~(8) "Modified adjusted gross income" means individual or family income as defined for state medicaid programs in the social security act and the Internal Revenue Code.~~

~~(9) "Small business health insurance pilot program" means the program created in section 56-241, Idaho Code.~~

SECTION 5. That Section 56-241, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Section 56-242, Idaho Code, be, and the same is hereby repealed.

SECTION 7. That Section 56-254, Idaho Code, be, and the same is hereby amended to read as follows:

56-254. ELIGIBILITY FOR MEDICAL ASSISTANCE. The department shall make payments for medical assistance to, or on behalf of, the following persons eligible for medical assistance.

(1) The benchmark plan for low-income children and working-age adults with no special health needs includes the following persons:

(a) Children in families whose family income does not exceed one hundred eighty-five percent (185%) of the federal poverty guideline and who meet age-related and other eligibility standards in accordance with department rule;

(b) Pregnant women of any age whose family income does not exceed one hundred thirty-three percent (133%) of the federal poverty guideline and who meet other eligibility standards in accordance with department rule, or who meet the presumptive eligibility guidelines in accordance with section 1920 of the social security act;

(c) Infants born to medicaid-eligible pregnant women. Medicaid eligibility must be offered throughout the first year of life as long as the infant remains in the mother's household and she remains eligible, or would be eligible if she were still pregnant;

(d) Adults in families with dependent children, as described in section 1931 of the social security act, who meet the requirements in the state's assistance to families with dependent children (AFDC) plan in effect on July 16, 1996;

(e) Families who are provided six (6) to twelve (12) months of medicaid coverage following loss of eligibility under section 1931 of the social security act due to earnings, or four (4) months of medicaid coverage following loss of eligibility under section 1931 of the social security act due to an increase in child or spousal support; and

~~(f) Employees of small businesses who meet the definition of "eligible adult" as described in section 56-238, Idaho Code, whose eligibility is limited to the medical assistance program described in section 56-241, Idaho Code;~~

~~(g) All other mandatory groups as defined in title XIX of the social security act, if not listed separately in subsection (2) or (3) of this section.~~

(2) The benchmark plan for persons with disabilities or special health needs includes the following persons:

(a) Persons under age sixty-five (65) years eligible in accordance with title XVI of the social security act, as well as persons eligible for aid to the aged, blind and disabled (AABD) under titles I, X and XIV of the social security act;

(b) Persons under age sixty-five (65) years who are in need of the services of a licensed nursing facility, a licensed intermediate care facility for the developmentally disabled, a state mental hospital, or home-based and community-based care, whose income does not exceed three hundred percent (300%) of the social security income (SSI) standard and who meet the asset standards and other eligibility standards in accordance with federal law and regulation, Idaho law and department rule;

(c) Certain disabled children described in 42 CFR 435.225 who meet resource limits for aid to the aged, blind and disabled (AABD) and income limits for social security income (SSI) and other eligibility standards in accordance with department rules;

(d) Persons under age sixty-five (65) years who are eligible for services under both titles XVIII and XIX of the social security act;

(e) Children who are eligible under title IV-E of the social security act for subsidized board payments, foster care or adoption subsidies, and children for whom the state has assumed temporary or permanent responsibility and who do not qualify for title IV-E assistance but are in foster care, shelter or emergency shelter care, or subsidized adoption, and who meet eligibility standards in accordance with department rule;

(f) Eligible women under age sixty-five (65) years with incomes at or below two hundred percent (200%) of the federal poverty level, for cancer treatment pursuant to the federal breast and cervical cancer prevention and treatment act of 2000;

(g) Low-income children and working-age adults under age sixty-five (65) years who qualify under subsection (1) of this section and who require the services for persons with disabilities or special health needs listed in section 56-255(3), Idaho Code;

(h) Persons over age sixty-five (65) years who choose to enroll in this state plan; and

(i) Effective January 1, 2018, children under age eighteen (18) years with serious emotional disturbance, as defined in section 16-2403, Idaho Code, in families whose income does not exceed three hundred percent (300%) of the federal poverty guideline and who meet other eligibility standards in accordance with department rule.

(3) The benchmark plan for persons over twenty-one (21) years of age who have medicare and medicaid coverage includes the following persons:

(a) Persons eligible in accordance with title XVI of the social security act, as well as persons eligible for aid to the aged, blind and disabled (AABD) under titles I, X and XIV of the social security act;

(b) Persons who are in need of the services of a licensed nursing facility, a licensed intermediate care facility for the developmentally disabled, a state mental hospital, or home-based and community-based care, whose income does not exceed three hundred percent (300%) of the social security income (SSI) standard and who meet the assets standards and other eligibility standards in accordance with federal and state law and department rule;

(c) Persons who are eligible for services under both titles XVIII and XIX of the social security act who have enrolled in the medicare program; and

(d) Persons who are eligible for services under both titles XVIII and XIX of the social security act and who elect to enroll in this state plan.

Approved March 8, 2021

CHAPTER 23
(S.B. No. 1033)

AN ACT

RELATING TO THE LEGISLATIVE ACCOUNT; AMENDING SECTION 67-451, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE TRANSFER OF FUNDS INTO THE LEGISLATIVE ACCOUNT; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 67-451, Idaho Code, be, and the same is hereby amended to read as follows:

67-451. LEGISLATIVE ACCOUNT CREATED -- DUTIES OF CONTROLLER -- DISBURSEMENTS FROM ACCOUNT -- REPORT OF DISBURSEMENTS. (1) There is hereby created in the state treasury the legislative account. The legislative account shall consist of such moneys as are placed into it by other appropriations, by receipts paid into the legislative account, and the moneys appropriated and transferred into it according to the provisions of this act.

(2) There is hereby appropriated out of the general fund and transferred into the legislative account, and commencing January 1, 2008~~21~~, the state controller is authorized and directed to make such transfers in the amounts shown on each of the following dates in each year:

January 1	\$1,825,000 <u>2,299,500</u>
March 1	\$1,825,000 <u>2,299,500</u>
June 1	\$1,445,000 <u>1,820,500</u>
September 1	\$1,660,000 <u>2,091,500</u>

(3) The president pro tempore of the senate and the speaker of the house of representatives are hereby authorized to make expenditures out of the legislative account for any necessary expenses of the legislature and the legislative account is hereby perpetually appropriated for any necessary expenses of the legislature. Necessary expenses of the legislature shall include, but are not necessarily limited to, salaries and wages of officers, members, and employees of the legislature, consultants and other expert or professional personnel, travel expenses of officers, members, and employees of the legislature, other current expenses incurred in any operation or function of the legislature, premiums for life, accidental death and dismemberment, hospital, medical, surgical and major medical insurance for members of the legislature during their terms of office, and for employees of the legislature during the period of their employment, and capital outlay items necessary for any operation or function of the legislature. The signature of the president pro tempore of the senate or the speaker of the house of representatives on any voucher or claim for payment shall be sufficient authority for the state controller to pay the same. Expenses for any interim activity of the legislature or legislators shall be paid in the same manner. Expenses for any interim legislative committees shall be paid in the same manner, if previously authorized by concurrent resolution.

(4) The state controller is hereby directed to devise and implement a financial reporting and control system for the purposes of this act that exempts legislative expenditures from any other provision of law, and the legislative account shall be specifically exempt from the provisions of chapter 35, title 67, Idaho Code, and shall be specifically exempt from the provisions of chapter 36, title 67, Idaho Code. Such system must produce a report as of the end of each calendar month that clearly shows additions to the account, the unexpended balance in the account, the expenditures to date, and the expenditures for the month reported, suitably detailed in such manner as the presiding officers may instruct the state controller. A copy of such report must be delivered to the president pro tempore of the senate and the speaker of the house of representatives and to the governor by no later than the fifth working day of the following month.

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, 2021.

Approved March 9, 2021

CHAPTER 24
(S.B. No. 1080)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR FISCAL YEAR 2021; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR FISCAL YEAR 2021; 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 227, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Department of Health and Welfare for the State Hospital South Program \$3,000,000 from the Cooperative Welfare (Federal) Fund to be expended for personnel costs for the period July 1, 2020, through June 30, 2021, for the purpose of utilizing the Institute of Mental Disease Waiver ability to bill Medicaid for inpatient hospitalizations.

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 9, 2021

CHAPTER 25
(H.B. No. 216)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR FISCAL YEAR 2021; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE ENHANCED MEDICAID PLAN PROGRAM FOR FISCAL YEAR 2021; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE EXPANSION MEDICAID PLAN PROGRAM FOR FISCAL YEAR 2021; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE ENHANCED MEDICAID PLAN PROGRAM FOR FISCAL YEAR 2021; 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 233, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Department of Health and Welfare for the Enhanced Medicaid Plan Program the following amounts to be expended for trustee and benefit payments from the listed funds for the period July 1, 2020, through June 30, 2021:

FROM:	
Cooperative Welfare (Dedicated) Fund	\$12,657,500
Cooperative Welfare (Federal) Fund	<u>139,827,900</u>
TOTAL	\$152,485,400

SECTION 2. In addition to the appropriation made in Section 1, Chapter 233, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Department of Health and Welfare for the Expansion Medicaid Plan Program the following amounts to be expended for trustee and benefit payments from the listed funds for the period July 1, 2020, through June 30, 2021:

FROM:

Cooperative Welfare (General) Fund	\$26,830,100
Cooperative Welfare (Dedicated) Fund	88,119,700
Cooperative Welfare (Federal) Fund	<u>164,971,000</u>
TOTAL	\$279,920,800

SECTION 3. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Health and Welfare for the Enhanced Medicaid Plan Program in Section 1, Chapter 233, Laws of 2020, from the Cooperative Welfare (General) Fund is hereby reduced by \$62,642,100 for trustee and benefit payments for the period July 1, 2020, through June 30, 2021.

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 11, 2021

CHAPTER 26
(H.B. No. 15)

AN ACT

RELATING TO PROPERTY TAXES; AMENDING SECTION 50-1008, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-308, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE SUBSEQUENT PROPERTY ROLL AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 50-1008, Idaho Code, be, and the same is hereby amended to read as follows:

50-1008. COLLECTION OF SPECIAL ASSESSMENTS -- CERTIFICATION TO TAX COLLECTOR -- ~~WIDOW'S EXEMPTION~~. All special assessments levied in any city to which the provisions of this act are made applicable shall be due and payable to the city treasurer and, if not paid within thirty (30) days after mailing of notification of assessment, shall be declared delinquent and be certified to the tax collector of the county by the city clerk, not later than the first day of August and shall be by said tax collector placed upon the tax roll and collected in the same manner and subject to the same penalties as other city taxes; ~~provided, however, that special assessments certified to the tax collector which are placed on property qualifying for a widow's exemption may be returned to the taxing district from which they originated if the special assessments are not paid within three (3) years.~~ All money received on special assessments shall be held by the city treasurer as a special fund to be applied to the payment of the improvement for which the as-

assessment was made, and said money shall be used for no other purpose whatever unless to reimburse such city for money expended for such improvement.

SECTION 2. That Section 63-308, Idaho Code, be, and the same is hereby amended to read as follows:

63-308. VALUATION ASSESSMENT NOTICE TO BE FURNISHED TAXPAYER. (1) At the taxpayer's request, on a form provided by the assessor, the valuation assessment notice may be transmitted electronically to the taxpayer.

(2) The valuation assessment notice required under the provisions of this chapter shall be delivered or may be transmitted electronically, as that term is defined in section 63-115, Idaho Code, if electronic transmission is requested by the taxpayer, to the taxpayer or to his agent or representative or mailed to the taxpayer or to his agent or representative at his last known post office address no later than the first Monday in June. The original valuation assessment notice so mailed or transmitted electronically must contain notices of all meetings of the board of equalization prescribed by this title for the purposes of equalizing assessments of property and for granting exemptions from taxation. The notice shall, in clear terms, inform the taxpayer of the assessed market value for assessment purposes of his property for the current year and his right to appeal to the county board of equalization. The state tax commission may require that other data or information be shown on the form.

(3) In case any changes or corrections are made by the assessor from the original valuation assessment notice, the assessor shall immediately transmit electronically or mail a corrected valuation assessment notice to the taxpayer or to his agent or representative.

(4) If the taxpayer is one other than the equitable titleholder, such as an escrowee, trustee of trust deed or other third party, the taxpayer shall transmit electronically or mail to the equitable titleholder a true copy of the valuation assessment notice on or before the second Monday in June.

(5) For property entered and assessed on the subsequent property roll pursuant to section 63-311, Idaho Code, the valuation assessment notice shall be transmitted electronically to the taxpayer or to his agent or representative or mailed to the taxpayer or to his agent or representative at his last known post office address as soon as possible after it is prepared, but not later than the ~~fourth~~ third Monday in November.

(6) For property entered and assessed on the missed property roll pursuant to section 63-311, Idaho Code, the valuation assessment notice shall be transmitted electronically to the taxpayer or to his agent or representative or mailed to the taxpayer or to his agent or representative at his last known post office address as soon as possible after it is prepared, but not later than the first Monday of January of the following year.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2021.

Approved March 12, 2021

CHAPTER 27
(H.B. No. 23)

AN ACT

RELATING TO ENDOWMENT LAND; REPEALING SECTION 58-156, IDAHO CODE, RELATING TO LEGISLATIVE FINDINGS AND PURPOSES REGARDING THE EXCHANGE OF CERTAIN LANDS.

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

SECTION 1. That Section 58-156, Idaho Code, be, and the same is hereby repealed.

Approved March 12, 2021

CHAPTER 28
(H.B. No. 24)

AN ACT

RELATING TO THE IDAHO BOARD OF SCALING PRACTICES; AMENDING SECTION 38-1205, IDAHO CODE, TO REVISE PROVISIONS REGARDING BOARD COMPENSATION.

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

SECTION 1. That Section 38-1205, Idaho Code, be, and the same is hereby amended to read as follows:

38-1205. COMPENSATION. Each member of the board shall be compensated as provided in section 59-509 (gm), Idaho Code.

Approved March 12, 2021

CHAPTER 29
(H.B. No. 27)

AN ACT

RELATING TO JUDICIAL DISTRICTS; AMENDING SECTION 1-804, IDAHO CODE, TO REVISE THE NUMBER OF JUDGES AND RESIDENT CHAMBERS IN THE THIRD JUDICIAL DISTRICT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 1-804, Idaho Code, be, and the same is hereby amended to read as follows:

1-804. THIRD DISTRICT -- NUMBER OF JUDGES -- RESIDENT CHAMBERS. (1) The third judicial district shall consist of the counties of Adams, Washington, Payette, Gem, Canyon and Owyhee.

(2) The third judicial district shall have ~~seven~~ eight (78) district judges.

(3) Resident chambers of the district judges of the third judicial district shall be established as follows:

(a) One (1) resident chambers shall be established in Washington or Payette County.

(b) ~~Six~~ Seven (~~6~~7) resident chambers shall be established in Canyon County.

Approved March 12, 2021

CHAPTER 30
(H.B. No. 29)

AN ACT

RELATING TO THE SEXUAL OFFENDER CLASSIFICATION BOARD; AMENDING SECTION 74-105, IDAHO CODE, TO PROVIDE THAT VOTING RECORDS OF THE FORMER SEXUAL OFFENDER CLASSIFICATION BOARD SHALL BE EXEMPT FROM DISCLOSURE; AMENDING SECTION 18-8314, IDAHO CODE, TO AUTHORIZE THE SEXUAL OFFENDER MANAGEMENT BOARD TO MANAGE AND MAINTAIN THE RECORDS OF THE FORMER SEXUAL OFFENDER CLASSIFICATION BOARD AND TO MAKE TECHNICAL CORRECTIONS; 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, 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 is 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 paragraph, "system" includes electrical, computer and telecommunication systems, electric power (including production, generating, transportation, transmission and distribution), heating, ventilation, and air conditioning. 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 former sexual offender management 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 in 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.

(17) Records of any certification or notification required by federal law to be made in connection with the acquisition or transfer of a firearm, including a firearm as defined in 26 U.S.C. 5845(a).

(18) The following records of the state public defense commission:

(a) Records containing information protected or exempted from disclosure under the rules adopted by the Idaho supreme court, attorney work product, attorney-client privileged communication, records containing confidential information from an individual about his criminal case or performance of his attorney, or confidential information about an inquiry into an attorney's fitness to represent indigent defendants.

(b) Records related to the administration of the extraordinary litigation fund by the state public defense commission, pursuant to section 19-850(2)(e), Idaho Code, to the extent that such records contain information protected or exempted from disclosure under rules adopted by the Idaho supreme court, attorney work product or attorney-client privileged communication. This exemption does not include the amount awarded based upon an application for extraordinary litigation funds.

(19) Records and information received by the office of the state controller from any local government, state agency and department, or volunteer nongovernmental entity for purposes of entry into the criminal justice integrated data system pursuant to section 19-4803, Idaho Code, and all records created by persons authorized to research and analyze information entered into the criminal justice integrated data system, regardless of whether such records were previously exempted from disclosure or redacted pursuant to state or federal law or court order. This exemption does not apply to projects, reports, and data analyses approved for release by the data oversight council and issued by persons authorized to conduct research and analysis as set forth in chapter 48, title 19, Idaho Code. Records and information relating to the management of the criminal justice integrated data system shall not be exempt from disclosure except as otherwise provided in law.

SECTION 2. That Section 18-8314, Idaho Code, be, and the same is hereby amended to read as follows:

18-8314. POWERS AND DUTIES OF THE SEXUAL OFFENDER MANAGEMENT BOARD. (1) The board shall develop, advance and oversee sound sexual offender management policies and practices statewide as demonstrated by evidence-based best practices.

(2) The board shall carry out the following duties:

(a) Establish standards for psychosexual evaluations performed pursuant to section 18-8316, Idaho Code, and sexual offender treatment programs based on current and evolving best practices.

(b) Establish qualifications, set forth procedures for approval and certification, and administer the certification process for:

(i) Professionals conducting psychosexual evaluations pursuant to section 18-8316, Idaho Code, or adjudication proceedings on juvenile sexual offenders;

(ii) Professionals providing treatment to adult or juvenile sexual offenders as ordered or required by the court, the Idaho department of correction, the Idaho commission of pardons and parole, or the Idaho department of juvenile corrections; and

(iii) Professionals conducting post-conviction sexual offender polygraphs as ordered or required by the court, the Idaho department of correction, or the Idaho commission of pardons and parole.

(c) Establish a nonrefundable processing fee not to exceed one hundred fifty dollars (\$150) for each initial certification and a nonrefundable processing fee not to exceed one hundred fifty dollars (\$150) for each annual recertification.

(d) Set forth and administer procedures for quality assurance of the standards and qualifications established in this section.

(e) The board shall have authority to deny, revoke, restrict or suspend a certification if standards or qualifications are not met or to otherwise monitor a provider.

(f) Establish and implement standard protocols for sexual offender management, assessment and classification based on current and evolving best practices.

(g) Manage and maintain the records of the former sexual offender classification board.

(3) The board shall have authority to promulgate rules to carry out the provisions of this chapter.

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 12, 2021

CHAPTER 31
(H.B. No. 32)

AN ACT

RELATING TO SALES TAXES; AMENDING SECTION 63-3606, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE APPLICABILITY OF THE SALES AND USE TAX TO A NEW MANUFACTURED HOME AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 63-3609, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE APPLICABILITY OF SALES AND USE TAX TO CERTAIN PERSONAL PROPERTY AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 63-3606, Idaho Code, be, and the same is hereby amended to read as follows:

63-3606. NEW MANUFACTURED HOME. (1) The term "new manufactured home" means a manufactured home, as defined in section 39-4105, Idaho Code, which that is sold for the first time at retail. The sale of a new manufactured home by a licensed manufacturer to a licensed retailer who provides a valid resale certificate is exempt from sales and use tax under this chapter. The term "new manufactured home" includes all components incorporated in such manufactured home at the time of manufacture and remaining unchanged at the time of the original retail sale thereof.

(2) Furniture, fixtures, furnishings, appliances and attachments not incorporated as component parts of the manufactured home at the time of manufacture shall be subject to the sales and use tax separately and distinctly from the sales price of a new manufactured home. ~~Refrigerators, ranges, draperies, and wood burning stoves placed in the manufactured home by the manufacturer shall be deemed to be components incorporated into such manufactured home.~~ at the time of its first retail sale. Items incorporated into the new manufactured home as component parts by the manufacturer are taxed at the same rate as the new manufactured home.

SECTION 2. That Section 63-3609, Idaho Code, be, and the same is hereby amended to read as follows:

63-3609. RETAIL SALE -- SALE AT RETAIL. The terms "retail sale" or "sale at retail" means a sale for any purpose other than resale in the regular course of business or lease or rental of property in the regular course of business where such rental or lease is taxable under section 63-3612(h), Idaho Code.

(a) All persons engaged in constructing, altering, repairing or improving real estate, are consumers of the material used by them; all sales to or use by such persons of tangible personal property are taxable whether or not such persons intend resale of the improved property.

(b) For the purpose of this chapter, the sale or purchase of personal property incidental to the sale of real property or used mobile or manufactured homes is deemed a sale of real property.

Approved March 12, 2021

CHAPTER 32
(H.B. No. 35)

AN ACT

RELATING TO HEALTH; REPEALING CHAPTER 10, TITLE 66, IDAHO CODE, RELATING TO THE IDAHO TUBERCULOSIS HOSPITAL.

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

SECTION 1. That Chapter 10, Title 66, Idaho Code, be, and the same is hereby repealed.

Approved March 12, 2021

CHAPTER 33
(H.B. No. 36)

AN ACT

RELATING TO THE STATE REGISTRAR OF VITAL STATISTICS; AMENDING SECTION 39-5403, IDAHO CODE, TO REMOVE PROVISIONS REGARDING CERTAIN RECORDS; AND AMENDING SECTION 39-270, IDAHO CODE, TO REVISE PROVISIONS REGARDING DISCLOSURE OF CERTAIN INFORMATION.

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

SECTION 1. That Section 39-5403, Idaho Code, be, and the same is hereby amended to read as follows:

39-5403. CONSENT -- ~~FILING AND~~ NOTICE REQUIREMENTS. (1) Artificial insemination shall not be performed upon a woman without her prior written request and consent and the prior written request and consent of her husband.

(2) ~~Whenever a child is born who may have been conceived by artificial insemination, a copy of the request and consent required under subsection (1) of this section shall be filed by the physician who performs the artificial insemination with the state registrar of vital statistics. The state board of health and welfare shall have the authority to promulgate rules and regulations and to prescribe methods and forms of reporting, and fees to~~

~~carry out the provisions of this act. Storage, retrieval and confidentiality of records shall be governed by chapter 1, title 74, Idaho Code.~~

~~(3) The information filed under subsection (2) of this section shall be sealed by the state registrar and may be opened only upon an order of a court of competent jurisdiction, except that pursuant to chapter 1, title 74, Idaho Code, data contained in such records may be used for research and statistical purposes.~~

~~(4) If the physician who performs the artificial insemination does not deliver the child conceived as a result of the artificial insemination, it is the duty of the mother and her husband to give that physician notice of the child's birth. The physician who performs the artificial insemination shall not be liable for noncompliance with subsection (2) of this section if the noncompliance is a result of the failure of the mother and her husband to notify the physician of the birth.~~

SECTION 2. That Section 39-270, Idaho Code, be, and the same is hereby amended to read as follows:

39-270. DISCLOSURE OF INFORMATION. (a) Certificates and records in the custody of the state registrar shall be open to inspection subject to the provisions of this chapter and the rules of the board, the provisions of section 74-102, Idaho Code, to the contrary notwithstanding; and it shall be unlawful for any state or local official or employee under this chapter to disclose any data contained in the records, except as authorized by this chapter and the rules of the board.

(b) A complete copy, or any part of a certificate, may be issued to any applicant who can show direct and tangible interest in the record for which he applies. A complete copy, or any part of a certificate, shall be issued upon request or at the direction of the state registrar to a state, federal or local public agency for child protection and child support enforcement purposes pursuant to chapters 10, 11 and 12, title 7, Idaho Code, and sections 16-1628, 20-524, 32-710A and 56-203, Idaho Code, or for the purpose of investigation of fraud related to benefit payments. Subject to such provisions as the board may prescribe, data contained on records may be used by federal, state or municipal agencies for the purpose of verification of data.

(c) As provided in chapter 1, title 74, Idaho Code, data contained on records may be used for research, public health or statistical purposes. No lists of registration shall be compiled for public use.

(d) The manner of keeping local records and the use thereof shall be prescribed by the board, in keeping with the provisions of this section.

(e) When one hundred (100) years have elapsed after the date of birth, or fifty (50) years have elapsed after the date of death, stillbirth, marriage or divorce, the records of these events in the custody of the state registrar shall become public records and information shall be made available in accordance with chapter 1, title 74, Idaho Code.

Approved March 12, 2021

CHAPTER 34
(H.B. No. 37)

AN ACT

RELATING TO NURSES; AMENDING SECTION 54-1413, IDAHO CODE, TO REVISE A PROVISION REGARDING DISCIPLINARY ACTION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 54-1413, Idaho Code, be, and the same is hereby amended to read as follows:

54-1413. DISCIPLINARY ACTION. (1) Grounds for discipline. The board shall have the power to refuse to issue, renew or reinstate a license issued pursuant to this chapter and may revoke, suspend, place on probation, reprimand, limit, restrict, condition or take other disciplinary action against the licensee as it deems proper, upon a determination by the board that the licensee engaged in conduct constituting any one (1) of the following grounds:

- (a) Made, or caused to be made, a false, fraudulent or forged statement or representation in procuring or attempting to procure a license to practice nursing;
- (b) Practiced nursing under a false or assumed name;
- (c) Is convicted of or enters a guilty plea for a crime that is deemed relevant in accordance with section 67-9411(1), Idaho Code;
- (d) Is or has been grossly negligent or reckless in performing nursing functions;
- (e) Habitually uses alcoholic beverages or drugs as defined by rule;
- (f) Is physically or mentally unfit to practice nursing;
- (g) Violates the provisions of this chapter or rules and standards of conduct and practice as may be adopted by the board;
- (h) Otherwise engages in conduct of a character likely to deceive, defraud or endanger patients or the public, which includes, but is not limited to, failing or refusing to report criminal conduct or other conduct by a licensee that endangers patients;
- (i) Has been disciplined by a nursing regulatory authority in any jurisdiction. A certified copy of the order entered by the jurisdiction shall be prima facie evidence of such discipline;
- (j) Failure to comply with the terms of any board order, negotiated settlement or probationary agreement of the board, or to pay fines or costs assessed in a prior disciplinary proceeding;
- (k) Engaging in conduct with a patient that is sexual, sexually exploitative, sexually demeaning or may reasonably be interpreted as sexual, sexually exploitative or sexually demeaning; or engaging in conduct with a former patient that is sexually exploitative or may reasonably be interpreted as sexually exploitative. It would not be a violation under this subsection for a nurse to continue a sexual relationship with a spouse or individual of majority if a consensual sexual relationship existed prior to the establishment of the nurse-patient relationship; or
 - (1) Failure to comply with the requirements of the abortion complications reporting act, chapter 95, title 39, Idaho Code.
 - (2) Separate offense. Each day an individual violates any of the provisions of this chapter or rules and standards of conduct and practice as may be adopted by the board shall constitute a separate offense.
 - (3) Proceedings.
 - (a) The executive director shall conduct such investigations and initiate such proceedings as necessary to ensure compliance with this

section. The board may accept the voluntary surrender of a license from any nurse under investigation and accordingly enter an order revoking or suspending such license and/or imposing such conditions, limitations, or restrictions on the practice of any such nurse as may be appropriate in the discretion of the board. Otherwise, every person subject to disciplinary proceedings shall be afforded an opportunity for hearing after reasonable notice. All proceedings hereunder shall be in accordance with chapter 52, title 67, Idaho Code.

(b) Hearings shall be conducted by the board or by persons appointed by the board to conduct hearings and receive evidence. The board and any person duly appointed by the board to conduct hearings shall have all powers as are necessary and incident to the orderly and effective receipt of evidence including, but not limited to, the power to administer oaths and to compel by subpoena attendance of witnesses and production of books, records and things at the hearing or at a deposition taken by a party in accordance with the Idaho rules of civil procedure. Any party shall be entitled to the use of subpoena upon application therefor.

(c) In the event any person fails to comply with a subpoena personally served upon him or refuses to testify to any matter regarding which he may be lawfully interrogated, the board shall petition the district court in the county where such failure or refusal occurred, or where such person resides, to enforce such subpoena or compel such testimony. Proceedings before the district court shall be for contempt in the same nature as contempt of court for failure or refusal to comply with an order of the court, and the court shall have the same powers to secure compliance with subpoena and testimony or to impose penalties as in contempt of court proceedings.

(d) The assessment of costs and attorney's fees incurred in the investigation and prosecution or defense of an administrative proceeding against a licensee under this chapter shall be governed by the provisions of section 12-117(5), Idaho Code.

(4) Probation/subsequent review. Any order of the board entered under this section may be withheld or suspended for a probationary period to be fixed by the board upon such terms and conditions as may be appropriate in order to regulate, monitor and/or supervise the practice of nursing by the licensee subject to such order for the prescribed probationary period. Any order of the board entered under this section may be withdrawn, reversed, modified or amended upon a showing by the person subject to the order that the grounds for discipline no longer exist or that he is rehabilitated, qualified and competent to practice nursing and that he is not likely to violate this chapter or rules adopted hereunder in the future.

(5) Reporting investigative information.

(a) Nothing in section 74-106(8) and (9), Idaho Code, shall be construed as limiting the authority of the board to report current significant investigative information to the coordinated licensure information system for transmission to states that are parties to any multistate agreements or compacts regarding nurse licensure.

(b) The executive director of the board may, in the administration of this chapter, share information and otherwise cooperate with government regulatory and law enforcement agencies.

CHAPTER 35
(H.B. No. 39)

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTION 37-2701, IDAHO CODE, TO DEFINE A TERM AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 37-2716, IDAHO CODE, TO PROVIDE FOR CERTAIN REGISTRATION WITH THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 37-2726, IDAHO CODE, TO PROVIDE FOR FILING OF PRESCRIPTIONS WITH THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES, TO REMOVE A PROVISION REGARDING A CERTAIN DATABASE, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 37-2730A, IDAHO CODE, TO PROVIDE FOR PRESCRIPTION TRACKING BY THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 37-2732, 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 37-2701, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(1) A practitioner or, in his presence, by his authorized agent; or

(2) The patient or research subject at the direction and in the presence of the practitioner.

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

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

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

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

(f) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance.

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

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

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

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

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

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

(m) "Division" means the Idaho division of occupational and professional licenses.

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

(no) "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter. It includes, but is not limited to:

- (1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
- (2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;
- (3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
- (4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;
- (5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
- (6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;
- (7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
- (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;
- (9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
- (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;
- (11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;
- (12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:
 - (i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - (ii) Water pipes;
 - (iii) Carburetion tubes and devices;
 - (iv) Smoking and carburetion masks;

- (v) Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
- (vi) Miniature cocaine spoons, and cocaine vials;
- (vii) Chamber pipes;
- (viii) Carburetor pipes;
- (ix) Electric pipes;
- (x) Air-driven pipes;
- (xi) Chillums;
- (xii) Bongs;
- (xiii) Ice pipes or chillers;

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

1. Statements by an owner or by anyone in control of the object concerning its use;
2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;
3. The proximity of the object, in time and space, to a direct violation of this chapter;
4. The proximity of the object to controlled substances;
5. The existence of any residue of controlled substances on the object;
6. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
7. Instructions, oral or written, provided with the object concerning its use;
8. Descriptive materials accompanying the object ~~which~~ that explain or depict its use;
9. National and local advertising concerning its use;
10. The manner in which the object is displayed for sale;
11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
12. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
13. The existence and scope of legitimate uses for the object in the community;
14. Expert testimony concerning its use.

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

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

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

(rs) "Law enforcement agency" means a governmental unit of one (1) or more persons employed full-time or part-time by the state or a political subdivision of the state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are autho-

rized to make arrests for crimes while acting within the scope of their authority.

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

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

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

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

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

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

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

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

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

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

(xy) "Peace officer" means any duly appointed officer or agent of a law enforcement agency, as defined herein, including τ but not limited to τ a duly appointed investigator or agent of the Idaho state police, an officer or an

employee of the board of pharmacy, who is authorized by the board to enforce this chapter, an officer of the Idaho state police, a sheriff or deputy sheriff of a county, or a marshal or policeman of any city.

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

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

(aabb) "Practitioner" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

37-2716. REGISTRATION REQUIREMENTS. (a) Every person who manufactures, distributes, prescribes, administers, dispenses, or conducts research with any controlled substance within this state shall obtain annually a registration issued by the board in accordance with this chapter and its rules.

(b) Every prescriber, except veterinarians, shall also register with the board division to obtain online access to the controlled substances prescriptions database.

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

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

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

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

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

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

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

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

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

SECTION 3. That Section 37-2726, Idaho Code, be, and the same is hereby amended to read as follows:

37-2726. FILING PRESCRIPTIONS -- DATABASE. (1) All controlled substances, and opioid antagonists as defined in section 54-1733B, Idaho Code, dispensed for humans shall be filed with the board division electronically in a format established by the board ~~or by other method as required by board rule~~ division. The board division may require the filing of other prescriptions by board rule. The board division 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 division 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 board division shall retain the information submitted pursuant to subsection (1) of this section for a period of five (5) years from the date the controlled substance was dispensed. The database information must be made available only to the following:

(a) Authorized individuals employed by the division, 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;

(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 division shall require pharmacists and prescribers, except veterinarians, to annually register with the board division to obtain online access to the controlled substances prescriptions database.

(4) The board division 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 division 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's or pharmacist's supervision.~~

~~(7) Any person who knowingly misrepresents to the board division 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.~~

(87) Any person in possession, whether lawfully or unlawfully, of information from the controlled substances prescriptions database that 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 or rule or regulation, or 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.

(98) Any person with access to the board division's online prescription monitoring program pursuant to a board division-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.

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

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

(121) For purposes of this section, "delegate" means a nurse, medical or office assistant, current student of a health profession if a licensed practitioner or registered graduate of such profession who may access the database, or a 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 division for such access.

SECTION 4. That Section 37-2730A, Idaho Code, be, and the same is hereby amended to read as follows:

37-2730A. PRESCRIPTION TRACKING PROGRAM. (1) The board division shall maintain a program to track the prescriptions for controlled substances that are filed with the board division under section 37-2726, Idaho Code, for the purpose of assisting in identifying illegal activity related to the dispensing of controlled substances and for the purpose of assisting the board division in providing information to patients, practitioners and pharmacists to assist in avoiding inappropriate use of controlled substances. The tracking program and any data created thereby shall be administered by the board division.

(2) The board division shall use the information obtained through the tracking program in identifying activity it reasonably suspects may be in violation of this chapter or medical assistance law. The board division shall report this information to the individuals and persons set forth in section 37-2726(2), Idaho Code. The board division may release unsolicited information to pharmacists and practitioners when the release of information may be of assistance in preventing or avoiding inappropriate use of controlled substances. The board division may provide the appropriate law enforcement agency, medicaid or medicare agency, or licensing board with the relevant information in the board division's possession, including

information obtained from the tracking program, for further investigation, or other appropriate law enforcement or administrative enforcement use.

(3) Information, ~~which that~~ does not identify individual patients, practitioners, or dispensing pharmacists or pharmacies, may be released by the board division for educational, research, or public information purposes.

(4) Nothing herein shall prevent a pharmacist or practitioner from furnishing another pharmacist or practitioner information obtained pursuant to and in compliance with this chapter.

(5) Unless there is shown malice or criminal intent or gross negligence or reckless, willful and wanton conduct as defined in section 6-904C, Idaho Code, the state of Idaho, the board division, any other state agency, or any person, or entity in proper possession of information as herein provided shall not be subject to any liability or action for money damages or other legal or equitable relief by reason of any of the following:

(a) The furnishing of information under the conditions herein provided;

(b) The receiving and use of, or reliance on, such information;

(c) The fact that any such information was not furnished; or

(d) The fact that such information was factually incorrect or was released by the board division to the wrong person or entity.

(6) The board division may apply for any available grants and accept any gifts, grants or donations to assist in developing and maintaining the program required by this section.

SECTION 5. That Section 37-2732, Idaho Code, be, and the same is hereby amended to read as follows:

37-2732. PROHIBITED ACTS A -- PENALTIES. (a) Except as authorized by this chapter, it is unlawful for any person to manufacture or deliver, or possess with intent to manufacture or deliver, a controlled substance.

(1) Any person who violates this subsection with respect to:

(A) A controlled substance classified in schedule I which is a narcotic drug or a controlled substance classified in schedule II, except as provided for in section 37-2732B(a) (3), Idaho Code, is guilty of a felony and upon conviction may be imprisoned for a term of years not to exceed life imprisonment, or fined not more than twenty-five thousand dollars (\$25,000), or both;

(B) Any other controlled substance which is a nonnarcotic drug classified in schedule I, or a controlled substance classified in schedule III, is guilty of a felony and upon conviction may be imprisoned for not more than five (5) years, fined not more than fifteen thousand dollars (\$15,000), or both;

(C) A substance classified in schedule IV, is guilty of a felony and upon conviction may be imprisoned for not more than three (3) years, fined not more than ten thousand dollars (\$10,000), or both;

(D) A substance classified in schedules V and VI, is guilty of a misdemeanor and upon conviction may be imprisoned for not more than one (1) year, fined not more than five thousand dollars (\$5,000), or both.

(b) Except as authorized by this chapter, it is unlawful for any person to create, deliver, or possess with intent to deliver, a counterfeit substance.

(1) Any person who violates this subsection with respect to:

(A) A counterfeit substance classified in schedule I which is a narcotic drug, or a counterfeit substance classified in schedule II, is guilty of a felony and upon conviction may be imprisoned for

not more than fifteen (15) years, fined not more than twenty-five thousand dollars (\$25,000), or both;

(B) Any other counterfeit substance classified in schedule I which is a nonnarcotic drug contained in schedule I or a counterfeit substance contained in schedule III₇ is guilty of a felony and upon conviction may be imprisoned for not more than five (5) years, fined not more than fifteen thousand dollars (\$15,000), or both;

(C) A counterfeit substance classified in schedule IV₇ is guilty of a felony and upon conviction may be imprisoned for not more than three (3) years, fined not more than ten thousand dollars (\$10,000), or both;

(D) A counterfeit substance classified in schedules V and VI or a noncontrolled counterfeit substance₇ is guilty of a misdemeanor and upon conviction may be imprisoned for not more than one (1) year, fined not more than five thousand dollars (\$5,000), or both.

(c) It is unlawful for any person to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this chapter.

(1) Any person who violates this subsection and has in his possession a controlled substance classified in schedule I which is a narcotic drug or a controlled substance classified in schedule II₇ is guilty of a felony and upon conviction may be imprisoned for not more than seven (7) years, or fined not more than fifteen thousand dollars (\$15,000), or both.

(2) Any person who violates this subsection and has in his possession lysergic acid diethylamide is guilty of a felony and upon conviction may be imprisoned for not more than three (3) years, or fined not more than five thousand dollars (\$5,000), or both.

(3) Any person who violates this subsection and has in his possession a controlled substance which is a nonnarcotic drug classified in schedule I except lysergic acid diethylamide, or a controlled substance classified in schedules III, IV, V and VI is guilty of a misdemeanor and upon conviction thereof may be imprisoned for not more than one (1) year, or fined not more than one thousand dollars (\$1,000), or both.

(d) It shall be unlawful for any person to be present at or on premises of any place where he knows illegal controlled substances are being manufactured or cultivated, or are being held for distribution, transportation, delivery, administration, use, or to be given away. A violation of this section shall deem those persons guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than three hundred dollars (\$300) and not more than ninety (90) days in the county jail, or both.

(e) If any person is found to possess marijuana, which for the purposes of this subsection shall be restricted to all parts of the plants of the genus Cannabis, including the extract or any preparation of cannabis which contains tetrahydrocannabinol, in an amount greater than three (3) ounces net weight, it shall be a felony and upon conviction may be imprisoned for not more than five (5) years, or fined not more than ten thousand dollars (\$10,000), or both.

(f) If two (2) or more persons conspire to commit any offense defined in this act, said persons shall be ~~punishable~~ punished by a fine or imprisonment, or both, which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the conspiracy.

(g) (1) It is unlawful for any person to manufacture or distribute a "simulated controlled substance," or to possess with intent to distribute₇ a "simulated controlled substance." Any person who violates this subsection shall, upon conviction, be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thou-

sand dollars (\$1,000) and not more than one (1) year in the county jail, or both.

(2) It is unlawful for any person to possess a "simulated controlled substance." Any person who violates this subsection shall, upon conviction, be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than three hundred dollars (\$300) and not more than six (6) months in the county jail, or both.

(h) It is unlawful for any person to cause to be placed in any newspaper, magazine, handbill, or other publication, or to post or distribute in any public place, any advertisement or solicitation offering for sale simulated controlled substances. Any person who violates this subsection is guilty of a misdemeanor and shall be punished in the same manner as prescribed in subsection (g) of this section.

(i) No civil or criminal liability shall be imposed by virtue of this chapter on any person registered under the Uniform Controlled Substances Act who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or other use by a registered practitioner, as defined in section 37-2701(aabb), Idaho Code, in the course of professional practice or research.

(j) No prosecution under this chapter shall be dismissed solely by reason of the fact that the dosage units were contained in a bottle or other container with a label accurately describing the ingredients of the imitation controlled substance dosage units. The good faith of the defendant shall be an issue of fact for the trier of fact.

(k) Upon conviction of a felony or misdemeanor violation under this chapter or upon conviction of a felony pursuant to the "racketeering act," section 18-7804, Idaho Code, or the money laundering and illegal investment provisions of section 18-8201, Idaho Code, the court may order restitution for costs incurred by law enforcement agencies in investigating the violation. Law enforcement agencies shall include, but not be limited to, the Idaho state police, county and city law enforcement agencies, the office of the attorney general and county and city prosecuting attorney offices. Costs shall include, but not be limited to, those incurred for the purchase of evidence, travel and per diem for law enforcement officers and witnesses throughout the course of the investigation, hearings and trials, and any other investigative or prosecution expenses actually incurred, including regular salaries of employees. In the case of reimbursement to the Idaho state police, those moneys shall be paid to the Idaho state police for deposit into the drug and driving while under the influence enforcement donation fund created in section 57-816, Idaho Code. In the case of reimbursement to the office of the attorney general, those moneys shall be paid to the general fund. A conviction for the purposes of this section means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment(s) or withheld judgment(s).

Approved March 12, 2021

CHAPTER 36
(H.B. No. 43)

AN ACT

RELATING TO WATER; AMENDING SECTION 42-237e, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE; REPEALING SECTION 42-237b, IDAHO CODE, RELATING TO THE ADMINISTRATIVE DETERMINATION OF ADVERSE CLAIMS; REPEALING SECTION 42-237c, IDAHO CODE, RELATING TO HEARINGS AND ORDERS OF LOCAL GROUND WATER BOARDS; REPEALING SECTION 42-237d, IDAHO CODE, RELATING TO LOCAL GROUND WATER BOARDS; REPEALING SECTION 42-237g, IDAHO CODE, RELATING TO PENALTIES; AND AMENDING SECTION 42-238a, IDAHO CODE, TO REMOVE A CODE REFERENCE.

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

SECTION 1. That Section 42-237e, Idaho Code, be, and the same is hereby amended to read as follows:

42-237e. APPEALS FROM ACTIONS OF THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES. Any person dissatisfied with any decision, determination, order or action of the director of the department of water resources, ~~watermaster, or of any local ground water board~~ made pursuant to this act may, if a hearing on the matter already has been held, seek judicial review pursuant to section 42-1701A(4), Idaho Code. If a hearing has not been held, any person aggrieved by the action of the director or watermaster may contest such action pursuant to section 42-1701A(3), Idaho Code.

SECTION 2. That Section 42-237b, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 42-237c, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 42-237d, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 42-237g, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Section 42-238a, Idaho Code, be, and the same is hereby amended to read as follows:

42-238a. WATER ADMINISTRATION ACCOUNT. There is hereby created in the state treasury a special account known as the water administration account. All fees and other moneys collected by the director of the department of water resources pursuant to sections 42-221, ~~42-237g~~, 42-238, 42-1713, 42-3905, 42-4003, and 42-4011, Idaho Code, shall be deposited in the water administration account. All moneys deposited in the water administration account are hereby appropriated to the director for the purpose of the administration of the provisions of title 42, Idaho Code, and no moneys received in the account shall be disbursed by the state treasurer unless the voucher for such disbursement contains the certificate of the director that such voucher is for an expense incurred in the administration of the provisions of title 42, Idaho Code.

Approved March 12, 2021

CHAPTER 37
(H.B. No. 49)

AN ACT

RELATING TO VEHICLE TITLES; AMENDING CHAPTER 5, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-510A, IDAHO CODE, TO PROVIDE THAT A LETTER FROM THE IDAHO TRANSPORTATION DEPARTMENT IS EVIDENCE OF PERFECTION OF A MOTOR VEHICLE TITLE; AND DECLARING AN EMERGENCY, PROVIDING RETROACTIVE APPLICATION, AND PROVIDING A SUNSET DATE.

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

SECTION 1. That Chapter 5, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-510A, Idaho Code, and to read as follows:

49-510A. PERFECTION OF TITLE. If a holder of a lien or encumbrance, his successor, agent, or assignee has properly filed with the department or agent of the department the documents required pursuant to section 49-510, Idaho Code, but the department or agent is for any reason unable to timely issue a title showing evidence of perfection, a letter from the department acknowledging such perfection of title shall be considered evidence of perfection for legal purposes.

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, 2021. The provisions of this act shall be null, void, and of no force and effect on and after July 1, 2022.

Approved March 12, 2021

CHAPTER 38
(H.B. No. 50)

AN ACT

RELATING TO THE IDAHO FOOD QUALITY ASSURANCE INSTITUTE; REPEALING CHAPTER 83, TITLE 67, IDAHO CODE, RELATING TO THE IDAHO FOOD QUALITY ASSURANCE INSTITUTE.

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

SECTION 1. That Chapter 83, Title 67, Idaho Code, be, and the same is hereby repealed.

Approved March 12, 2021

CHAPTER 39
(H.B. No. 74)

AN ACT

RELATING TO CITIES; AMENDING SECTION 50-304, IDAHO CODE, TO REVISE PROVISIONS REGARDING CITY QUARANTINE LAWS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 50-606, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE POLICE POWERS OF A MAYOR; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 50-304, Idaho Code, be, and the same is hereby amended to read as follows:

50-304. PRESERVATION OF PUBLIC HEALTH. Cities may establish a board of health and prescribe its powers and duties; pass all ordinances and make all regulations necessary to preserve the public health; prevent the introduction of contagious diseases into the city; and make quarantine laws for that purpose and enforce the same within ~~five (5) miles of the city.~~

SECTION 2. That Section 50-606, Idaho Code, be, and the same is hereby amended to read as follows:

50-606. POLICE POWERS OF MAYOR. The mayor shall have such jurisdiction as may be vested in him by ordinance over all places within ~~five (5) miles of the corporate limits of the city,~~ for the enforcement of any health or quarantine ordinance and regulation thereof, and shall have jurisdiction in all matters vested in him by ordinance, except taxation, within ~~one (1) mile of the corporate limits of said city~~ and over such properties as may be owned by the city without the corporate limits.

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 12, 2021

CHAPTER 40
(H.B. No. 64)

AN ACT

RELATING TO VETERINARY MEDICINE; AMENDING SECTION 54-2103, IDAHO CODE, TO REMOVE A DEFINITION, TO REVISE DEFINITIONS, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2104, IDAHO CODE, TO REVISE PROVISIONS REGARDING CERTAIN EXCEPTIONS; AMENDING SECTION 54-2105, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE BOARD OF VETERINARY MEDICINE AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 54-2107, IDAHO CODE, RELATING TO A LICENSE APPLICATION; AMENDING CHAPTER 21, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-2107, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING LICENSE APPLICATIONS; AMENDING CHAPTER 21, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-2107A, IDAHO CODE, TO PROVIDE FOR LICENSURE BY ENDORSEMENT; AMENDING CHAPTER 21, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-2107B, IDAHO CODE, TO PROVIDE FOR LICENSURE BY WRITTEN EXAMINATION; AMENDING SECTION 54-2108, IDAHO CODE, TO REMOVE CERTAIN LANGUAGE REGARDING CRIMINAL BACKGROUND CHECKS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-2110, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 54-2111, IDAHO CODE, RELATING TO TEMPORARY PERMITS; AMENDING SECTION 54-2112, IDAHO CODE, TO REVISE PROVISIONS REGARDING LICENSE EXPIRATION AND RENEWAL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2115, IDAHO CODE, TO PROVIDE FOR DISCIPLINE PURSUANT TO BOARD RULES AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 54-2118, IDAHO CODE, TO PROVIDE FOR BOARD RULES AND TO REVISE A PROVISION REGARDING DISCIPLINARY ACTION.

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~~ that has been inspected and certified by the committee on humane euthanasia 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 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 licensed veterinarian, a certified veterinary technician, a certified euthanasia agency or a certified euthanasia technician;

(c) The ability to enter into consent agreements and negotiated settlements with licensed veterinarians, certified veterinary technicians, certified euthanasia agencies and certified euthanasia technicians;

(d) The ability to bring an administrative or civil action against any person in or outside of this state who practices veterinary medicine, or 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 euthanasia" means a 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 the 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 the applicant's 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 by the United States drug enforcement administration; and~~

~~(c) Is not currently under investigation by another veterinary licensing authority for acts that 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 or 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 no criminal conviction record or pending criminal charge relating to an offense, the circumstances of which substantially relate to the practice of veterinary medicine or that is deemed relevant in accordance with section 67-9411(1), Idaho Code. 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.~~

(243) "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.

(254) "Legend/prescription drug" means any drug which that, 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 pre-

scription," or "RXx Only," or a drug which that 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.

(265) "Licensed veterinarian" means a person who is validly and currently licensed to practice veterinary medicine in this state.

(276) "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.

(287) "Medical incompetence" means lacking in sufficient medical knowledge or skills or both to a degree likely to endanger the health of patients.

(298) "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.

(3029) "On-call emergency service" means a veterinary medical facility that is available to provide emergency veterinary services as requested if a veterinarian is available.

(310) "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.~~

(321) "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.

(332) "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.

(343) "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 act described in this paragraph.

(b) To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in paragraph (a) of this subsection.

(c) To use any title, words, abbreviations or letter in a manner or under circumstances that induce the belief that the person using them is qualified to do any act described in paragraph (a) of this subsection, except where such person is a licensed veterinarian.

(354) "Professional supervision" means the supervising veterinarian is in daily contact by telephone, radio or other means with the temporary licensee.

(365) "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.

(376) "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.

(387) "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.

(398) "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 the rules of the board. A supervising veterinarian shall be individually responsible and liable, regardless of the supervision provided, for all damages arising out of his the veterinarian's 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.

(4039) "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 of 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.

(410) "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 oneself through offerings, advertisements or use of professional titles or designations as being qualified to practice veterinary medicine.

(421) "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.

(432) "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.

(443) "Veterinarian on premises" means a veterinarian is present at the veterinary medical facility and is prepared and qualified to render veterinary services.

(454) "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.

(465) "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.

(476) "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 54-2104, Idaho Code, be, and the same is hereby amended to read as follows:

54-2104. LICENSE A PREREQUISITE TO PRACTICE -- EXCEPTIONS. (1) No person may practice veterinary medicine in the state who is not an actively licensed veterinarian or the holder of a valid temporary permit issued by the board.

(2) This chapter shall not be construed to prohibit:

(a) A veterinarian employed by the federal, state or local government from performing his official duties specifically required under any lawful act or statute, except that this exemption shall not apply to such persons not actively engaged in performing or fulfilling their official duties and responsibilities.

(b) A person who is a regular student currently enrolled and in good standing in an accredited or approved school of veterinary medicine, veterinary science department or an educational institution accredited by a national or regional accrediting agency recognized by the Idaho state board of education or the United States department of education from performing duties or actions assigned by his the student's instructors, or from working under the direct supervision of an actively licensed veterinarian during a school vacation period. The unsupervised or unauthorized practice of veterinary medicine by a student, even though on the premises of an accredited or approved school of veterinary medicine, veterinary science department, an educational institution accredited by a national or regional accrediting agency recognized by the Idaho state board of education or the United States department of education or at a veterinary medical facility, is prohibited.

(c) A person who is a regular student currently enrolled and in good standing in a nonaccredited or nonapproved educational institution, ~~that~~ and who holds a valid certificate of registration issued by the Idaho state board of education, from performing duties or actions assigned by his the student's instructors. This exemption does not include surgery or the administration of controlled substances or legend/prescription drugs, unless specifically allowed by state or federal law, rule or regulation. The unsupervised or unauthorized personal practice of veterinary medicine by a student on the premises of a nonaccredited or nonapproved educational institution is prohibited.

(d) Idaho extension personnel from performing their official duties.

(e) A veterinarian holding a current, active license, in good standing, in another state, from consulting with a licensed veterinarian in this state.

(f) Any merchant or manufacturer from selling nonprescription and noncontrolled medicines, biologics, feed, medicated feed, appliances or other products for the prevention or treatment of animal and poultry diseases. Such merchants or manufacturers shall not, either directly or indirectly, attempt to diagnose a symptom or disease in order to advise treatment, the use of drugs, medicines, appliances or products.

(g) A farmer, rancher or feedlot operator, including custom ranch or feedlot operators, and their regular employees, from caring for and treating animals within their possession or control, when such animals have been consigned by their legal owner and except where the ownership or possession of the animal was transferred or the employment changed to circumvent this chapter.

(h) The owner of an animal or his the owner's regular employees from caring for and treating the animals belonging to such owner, or livestock owners or regular employees from pregnancy testing their own or employer's cattle or the exchange of services for which no monetary compensation is paid between owners or their regular employees, except where the ownership or possession of the animal was transferred or the employment changed to circumvent this chapter, and provided that only an actively licensed veterinarian may immunize or treat an animal for diseases which that require the use of a vaccine that is restricted by state or federal law, rules or regulations, or as otherwise provided by board rule. Notwithstanding the provisions of this paragraph, a veterinarian/client/patient relationship, as defined by the rules of the board, must exist when controlled substances or legend/prescription drugs are administered, distributed, dispensed or prescribed.

(i) A member of a faculty of an accredited or approved school of veterinary medicine, a veterinary science department, or an educational institution accredited by a national or regional accrediting agency recognized by the Idaho state board of education or the United States department of education, from performing his the faculty member's regular functions. The unsupervised or unauthorized personal practice of veterinary medicine, by a faculty member on the premises of any of ~~the above~~ such institutions, is prohibited.

(j) Any person from selling or applying any pesticide, insecticide, or herbicide.

(k) A person from lecturing or giving instructions or demonstrations at an accredited or approved school of veterinary medicine, veterinary science department or an educational institution accredited or approved by a national or regional accrediting agency recognized by the Idaho state board of education or the United States department of education, or in connection with an approved continuing education course or seminar.

(l) A member of a faculty of a nonaccredited or nonapproved educational institution, who holds a valid certificate of registration issued by the Idaho state board of education, from performing his the faculty member's regular functions. This exemption does not include surgery or the administration of controlled substances or legend/prescription drugs, unless specifically allowed by state or federal law, rule or regulation. The unsupervised or unauthorized personal practice of veterinary medicine by a faculty member on the premises of a nonaccredited or nonapproved educational institution is prohibited.

(m) Individuals employed as instructors or researchers by, or enrolled as students in, any bona fide medical research institution from conducting experiments and scientific research on animals:

- (i) In the development of pharmaceuticals, biologicals, or serums for treating human or animal ailments; or
 - (ii) In the development of methods of treatment or techniques for the diagnosis or treatment of human or animal ailments; or
 - (iii) When engaged in the study and development of methods and techniques directly or indirectly applicable to the practice of veterinary medicine, so as long as such research is conducted in compliance with applicable state and federal laws, rules and regulations.
- (n) Any person from performing artificial insemination of domestic animals as governed by chapter 8, title 25, Idaho Code.
- (o) Any person from horseshoeing or hoof-trimming bovine, equine and farm animals.
- (p) An allied health professional actively licensed and in good standing in any state from participating in a medical procedure involving an animal, provided that such participation is in his the health professional's licensed field of medicine and under the indirect supervision of an actively licensed veterinarian.
- (q) Any person from the gratuitous treatment of animals in an emergency as a neighborly act.
- (r) Any state or federal livestock inspector from performing his the official duties specifically required under any lawful act or statute, and provided that this exemption shall not apply to such persons not actively engaged in performing or fulfilling their official duties and responsibilities.
- (s) A certified euthanasia agency from operating as a CEA as defined by law and rules.
- (t) A certified euthanasia technician from performing those duties as defined by law and rules.
- (u) Any person from utilizing cotton swabs, gauze, dental floss, dentifrice or toothbrushes to clean an animal's teeth.
- (v) A certified veterinary technician from practicing veterinary technology under appropriate supervision, as defined by the rules of the board.
- (w) An assistant or veterinary technician from performing acts pertaining to the practice of veterinary medicine under appropriate supervision, as defined by the rules of the board.
- (x) The personal representative, executor or sole surviving heir of a licensed veterinarian from continuing to operate the veterinary medical practice of the deceased for a period of not more than three (3) years following death. This exception only applies only where during such three (3) year period:
- (i) Good faith efforts are being made to sell the veterinary medical practice; and
 - (ii) All the decisions pertaining to the diagnosis, care and treatment of the patients are made by an actively licensed veterinarian.
- (y) A veterinarian with an active license in good standing from another state from practicing veterinary medicine on animals in the collection of a publicly owned zoo that is either licensed by the United States department of agriculture (USDA) as an exhibitor or is accredited by the association of zoos and aquariums (AZA), but only when the Idaho licensed veterinarian who regularly attends to these animals is unavailable or unqualified to render the services required. This exemption from licensure only applies only after the out-of-state veterinarian notifies the board in writing: (1) where he will be practicing of the location of practice in Idaho; and (2) the expected duration of the practice. After the out-of-state veterinarian completes his the services under this section, he the veterinarian must so

notify the board in writing of that fact. Unless expressly extended by the board in its sound discretion, an exemption under this section is limited to a period of one (1) year from the initial notification date.

(3) Nothing in this section shall be construed as limiting the board's authority to provide other exemptions or exceptions to the requirements for licensing, under its rulemaking authority, as the board may find necessary or appropriate.

SECTION 3. 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) A board of veterinary medicine, which shall consist of six (6) members to be appointed by and serve at the pleasure of 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 board members shall serve a term of ~~four~~ five (45) years ~~as a veterinary board member and a~~, with the fifth year serving also as a liaison officer, or until his a successor is appointed. The public member shall serve for a term of three (3) years or until his a successor is appointed.

(b) Whenever the occasion arises for an appointment of a veterinary member under this section, the governor may consider recommendations for appointment to the board from the state veterinary medical association, ~~one (1) from any of the regional veterinary medical associations,~~ and from any individual residing in this state. Vacancies due to death, resignation or removal shall be filled for the remainder of the unexpired term in the same manner as regular appointments. Filling the remainder of a previous member's term shall not count toward the term limits provided for in this section. ~~No person veterinarian shall serve two (2) consecutive terms, except in the case of a person appointed for less than a full term.~~ The public member may serve two (2) full consecutive terms. 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, by providing 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 committee on humane euthanasia 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 the rules 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 meetings law, chapter 2, title 74, 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, to review each application for compliance with the licensure and certification requirements, and to 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 the euthanizing of 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 appoint 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 director 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~~ of the board.

(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 committee on humane euthanasia 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 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.

SECTION 4. That Section 54-2107, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Chapter 21, 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 54-2107, Idaho Code, and to read as follows:

54-2107. LICENSE APPLICATION -- CONTENTS -- FEE. (1) Any person desiring a license to practice veterinary medicine in this state shall make written application to the board and bear the burden of substantiating to the board the license application requirements. To apply for a veterinary license, the applicant shall complete the application available from the board office, receive a passing score of at least ninety percent (90%) on the Idaho jurisprudence examination, submit the license application fee and first year's license fee in the amount established in the board rules, and provide any additional information that the board may request.

(2) A completed application shall contain the applicant's notarized signature and shall include the items set out in section 54-2107A or 54-2107B, Idaho Code. Such application shall include an attestation by the applicant, under penalty of perjury, that:

(a) The applicant is twenty-one (21) years of age or older;

(b) All information contained in the application is true and correct to the best of the applicant's knowledge; and

(c) If applicable, the applicant has always been in good standing in any state in which the applicant has held a license in veterinary medicine.

(3) Application materials shall be valid for one (1) year after receipt by the board.

(4) An applicant denied licensure may request a hearing pursuant to the procedures set forth in chapter 52, title 67, Idaho Code.

SECTION 6. That Chapter 21, 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 54-2107A, Idaho Code, and to read as follows:

54-2107A. LICENSURE BY ENDORSEMENT. (1) This section shall apply to any applicant who:

(a) Is an active duty military member, a former member of the military after discharge under honorable conditions as defined in section 67-9403, Idaho Code, a veteran, or a spouse of any such person; or

(b) Has had an active license in any state, district, or territory of the United States for three (3) years immediately preceding the date of application for an Idaho license.

(2) A person applying for a license by endorsement pursuant to this section shall meet the requirements set out in section 54-2107, Idaho Code, and shall submit the following to the board:

(a) An attestation that the applicant has a degree in veterinary medicine from an accredited or approved school of veterinary medicine or has completed the requirements of the American veterinary medical association's education commission for foreign veterinary graduates program or the program for the assessment of veterinary education equivalence of the American association of veterinary state boards;

(b) Passing scores on the national examinations approved by the board; provided that an applicant who has held an active license from any state or states for the three (3) years immediately preceding application for an Idaho license may submit the written verification required in paragraph (c) of this subsection in lieu of such scores; and

(c) Written verification of any license or licenses from the licensing organization or organizations in any state or states where the applicant has held an active license for the three (3) years immediately preceding application for an Idaho license or as provided by the veterinary information verifying agency of the American association of veterinary state boards.

SECTION 7. That Chapter 21, 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 54-2107B, Idaho Code, and to read as follows:

54-2107B. LICENSURE BY WRITTEN EXAMINATION. (1) In addition to the requirements set out in section 54-2107, Idaho Code, any applicant who does not qualify for licensure by endorsement pursuant to section 54-2107A, Idaho Code, shall submit the following to the board:

(a) A certified copy of a diploma or transcript showing the applicant has a degree from an accredited or approved school of veterinary medicine or a letter from an accredited or approved school of veterinary medicine verifying satisfactory graduation by the applicant; 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 the ECFVG certificate; or by 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; and as approved and outlined by the rules of the board; and

(b) Passing scores on the national examinations approved by the board.

(2) After November 1, 2000, applicants who have taken their national examinations prior to this date and have not taken and passed the clinical competency test (CCT) may, in lieu of a passing score on the CCT, provide the following documentation from the licensing board in the state in which they

are currently actively practicing or from the veterinary information verifying agency of the American association of veterinary state boards:

(a) Verification of five (5) years of continuous, active practice in the same state or states where they have practiced for the past five (5) years immediately preceding application for licensure in Idaho, and provided that the requirements for licensure in the state or states are similar to those in Idaho; and

(b) Verification of no disciplinary action taken against the applicant's license to practice veterinary medicine during the five (5) year period immediately preceding application for a veterinary license in Idaho.

(3) The practice of an applicant licensed under subsection (2) of this section shall be limited to the same fields of veterinary medicine as such applicant has practiced in another state or states during the five (5) year period immediately preceding application for a veterinary license in Idaho.

(4) If applicable, the applicant shall submit written verification of any license or licenses from the licensing organization in any state or states where the applicant has held a license or as provided by the veterinary information verifying agency of the American association of veterinary state boards.

SECTION 8. That Section 54-2108, Idaho Code, be, and the same is hereby amended to read as follows:

54-2108. CRIMINAL BACKGROUND CHECKS FOR LICENSURE. (1) All applicants for ~~original~~ licensure or certification, or for reinstatement after the license or certification has lapsed pursuant to section 54-2112(3), Idaho Code, must submit to a fingerprint-based criminal history check of the Idaho central criminal database and the federal bureau of investigation criminal history database.

(2) For purposes of complying with this section, each such applicant must:

(a) Submit to the ~~Idaho board of veterinary medicine~~ a full set of the applicant's fingerprints for forwarding to the Idaho state police for appropriate processing by the Idaho state police and the federal bureau of investigation; and

(b) Submit to the ~~Idaho board of veterinary medicine~~ for forwarding to the Idaho state police and the federal bureau of investigation the full amount of the processing fees charged by ~~these~~ such agencies.

(3) This section shall apply to individuals only. This section shall not apply to entities applying for a certificate as a certified euthanasia agency.

SECTION 9. That Section 54-2110, Idaho Code, be, and the same is hereby amended to read as follows:

54-2110. LICENSE WITHOUT CLINICAL COMPETENCY TEST (CCT). (1) The board may, upon payment of the fee prescribed under section 54-2107, Idaho Code, license without the clinical competency test (CCT) any person who is a diplomate with current certification from a specialty board approved by the American veterinary medical association. The applicant shall fulfill all requirements for licensure with the exception of a passing score on the ~~clinical competency test (CCT)~~ and shall provide verification of a current certification from a specialty board approved by the American veterinary medical association. The veterinary practice of any person who is licensed pursuant to this subsection is limited to referrals in the specialty in which the person is board-certified.

(2) After November 1, 2000, the board may, upon payment of the fee prescribed under section 54-2107, Idaho Code, license without the ~~clinical~~

~~competency test (CCT) any person who has taken their national examinations prior to this date and has not taken and passed the CCT but has fulfilled, in addition to the other requirements for licensure, the requirements of section 54-2107(5), 54-2107A, or 54-2107B, Idaho Code.~~

(3) The board may require a personal interview of any or all applicants under this section.

SECTION 10. That Section 54-2111, Idaho Code, be, and the same is hereby repealed.

SECTION 11. That Section 54-2112, Idaho Code, be, and the same is hereby amended to read as follows:

54-2112. EXPIRATION OF LICENSE OR CERTIFICATION -- NOTICE -- RENEWAL -- INACTIVE STATUS. (1) All licenses and certifications shall expire annually on ~~July 1~~ the date established by the board unless renewed in a timely manner by submission of the annual renewal form prescribed by the board, by proof of completion of the appropriate hours of continuing education, by paying the renewal fee, and by meeting other requirements as defined in the rules adopted by of the board and payment of the renewal fee established and published by the board.

(2) An expired license or certification may be reinstated by paying the established late fee and renewal fee, and by fulfilling the other requirements of this section.

(3) An expired license or certification not reinstated prior to ~~August 1~~ thirty (30) days after it has expired will lapse. Individuals whose licenses or certifications have lapsed must ~~make~~ submit an application to the board as if for a new license or certification.

(4) Once a license or certification has expired or lapsed, the person or agency may not practice veterinary medicine or veterinary technology or function as a certified euthanasia technician or agency until the license or certification has been reinstated or until the person or agency has applied for and received a new license or certification.

(5) Any veterinarian licensed in Idaho or veterinary technician certified in Idaho who advises the board, in writing, that ~~he~~ the veterinarian or veterinary technician wishes to remain licensed or certified in this state, but does not intend to actively practice veterinary medicine or veterinary technology in the state of Idaho and therefore does not intend to meet the licensing or certification requirements for an active license or certification, shall be transferred from active to inactive status and shall be required to pay inactive status fees as prescribed in the rules of the board. Any person may transfer from inactive to active status by making written application for reinstatement to active status, providing adequate proof of continued competence if requested by the board, by paying all required fees, and by meeting other requirements for reinstatement as defined in the rules of the board.

SECTION 12. That Section 54-2115, Idaho Code, be, and the same is hereby amended to read as follows:

54-2115. GROUNDS FOR DISCIPLINE. The board may refuse to issue, renew or reinstate the license of a veterinarian, or may deny, revoke, suspend, sanction, reprimand, restrict, limit, place on probation or require voluntary surrender of, the license of a veterinarian, and may fine and impose other forms of discipline and enter into consent agreements and negotiated settlements with any licensed veterinarian pursuant to the procedures set forth in chapter 52, title 67, Idaho Code, for any or all of the following reasons:

(1) The employment of fraud, misrepresentation of a material fact or deception by an applicant or licensee in:

(a) Securing or attempting to secure the issuance or renewal of a license; ~~or~~

(b) Statements regarding the veterinarian's skills or efficacy or value of any treatment provided or to be provided or using any false, fraudulent, misleading or deceptive statement connected with the practice of veterinary medicine including, but not limited to, false or misleading advertising; ~~or~~

(c) Participating in a breach of the North American veterinary licensing examination (NAVLE). The following activity is a violation and constitutes grounds for discipline under this subsection:

(i) Written notification from the national board examination committee (NBEC), or its designee, that the NBEC has nullified the NAVLE score of the applicant or licensee because the applicant or licensee has admitted cheating or committing other improprieties in the taking, administering or processing of the NAVLE; or

(ii) Written notification from the NBEC, or its designee, that the NBEC has obtained a court judgment against the applicant or licensee after proving allegations that the applicant or licensee cheated or committed other improprieties in the taking, administering or processing of the NAVLE.

(2) Unethical or unprofessional conduct, as defined by section 54-2103, Idaho Code, and as established by the rules of the board, ~~and the code of professional conduct established by the rules of the board.~~

(3) Being found guilty, convicted, placed on probation, having entered a guilty plea that is accepted by the court, forfeiture of bail, bond or collateral deposited to secure a defendant's appearance, or having received a withheld judgment or suspended sentence by a court of competent jurisdiction in this state or any other state of one (1) or more of the following:

(a) Any felony as defined in chapter 1, title 18, Idaho Code;

(b) Any other criminal act which that in any way is related to the practice of veterinary medicine as defined by section 54-2103, Idaho Code; or

(c) Any violation of any federal or state statute, rule or regulation regulating narcotics, dangerous drugs or controlled substances.

(4) Medical incompetence in the practice of veterinary medicine, as defined by section 54-2103, Idaho Code.

(5) Physical or mental incompetence, in the practice of veterinary medicine, as defined in section 54-2103, Idaho Code.

(6) Malpractice or negligence, in the practice of veterinary medicine, as defined in section 54-2103, Idaho Code.

(7) Aiding or abetting an unlicensed or uncertified person to practice veterinary medicine or veterinary technology or employing or holding such unlicensed person out as being able to practice veterinary medicine or veterinary technology.

(8) Fraud, dishonesty, failure to report, or gross negligence in the inspection of animals and animal products intended for human consumption, issuance of health or inspection certificates, in the application, vaccination, treatment or reporting of any test for disease in animals, and in reporting any contagious or infectious disease.

(9) Failure to comply with the veterinary standards of practice, as established by the rules of the board ~~rule~~.

(10) Failure to comply with the recordkeeping requirements, as established by the rules of the board.

(11) Cruelty to animals including, but not limited to, the intentional and malicious infliction of pain, physical suffering, injury or death, performance of experimental treatments without the owner's consent, deprivation of necessary sustenance, withholding of appropriate pain medications

or levels of pain medications, or the administration of unnecessary procedures and treatment.

(12) Infliction of pain on any animal in self-defense, or to prevent physical harm to others, or in accordance with local custom and culture in moving, handling, treating, dehorning, castrating or performing other procedures on livestock, shall not be considered cruel or physically abusive unless done in an unnecessary or intentionally malicious manner. This provision does not alter section 25-3514, Idaho Code.

(13) Revocation, suspension, disciplinary sanction, other adverse action, or failure to report any such adverse action to the board, including voluntary surrender of a license or certificate by virtue of which one is licensed to practice veterinary medicine in that jurisdiction or country on grounds other than nonpayment of renewal fees.

(14) Falsifying or failing to fulfill the continuing education requirements, as established by the rules of the board.

(15) The use, prescription or sale of any controlled substance, veterinary legend/prescription drug or prescription of an extra-label use for any human or veterinary drug without a valid veterinarian/client/patient relationship.

(16) Charging for services which that were not rendered, charging for services that were not documented in the patient's records, or charging for services that were not consented to by the owner of the patient or the owner's agent.

(17) Failure to timely furnish details of a patient's medical record to another veterinarian, hospital, clinic, owner or owner's agent.

(18) Failure of any applicant or licensee to cooperate with the board during any investigation, even if such investigation does not personally concern the applicant or licensee.

(19) Failure to comply with the terms of any order, negotiated settlement or probationary agreement of the board or to pay the costs assessed in a disciplinary matter pursuant to section 54-2105, Idaho Code.

(20) Failure to comply with the terms for renewal or to timely pay license, certification or registration renewal fees, as specified by section 54-2112, Idaho Code, and the rules of the board.

(21) Failure of a licensed veterinarian to exercise proper supervision, as defined by the rules of the board, when supervising a temporary licensee or holder of a temporary certification, a certified veterinary technician, a veterinary technician, a veterinary assistant, a certified euthanasia technician or other person, except in an emergency situation as defined in section 54-2103, Idaho Code.

(22) Delegation of an act pertaining to the practice of veterinary medicine or veterinary technology to an unqualified person, regardless of the supervision provided.

(23) Aiding or abetting or violating any of the provisions of this chapter or any lawful rule or order of the board.

SECTION 13. That Section 54-2118, Idaho Code, be, and the same is hereby amended to read as follows:

54-2118. VIOLATIONS OF CHAPTER -- REMEDIES AND PENALTIES. In addition to the disciplinary actions set forth in section 54-2115, Idaho Code:

(1) Administrative actions.

(a) Any person violating the provisions of this chapter, or violating a board rule promulgated by the board to implement the provisions of this chapter, may be fined by the board or its duly authorized agent not more than five thousand dollars (\$5,000) for each offense; provided that each act on each day of violation shall constitute a separate offense. Imposition of a fine may be made in conjunction with any other board administrative action. No fine may be assessed unless the person charged

was given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act. If a person fined fails to fully pay the fine, investigatory expenses or reasonable paralegal and attorney's fees, the board may recover such amount by action in the appropriate district court. Any assessment for costs and attorney's fees incurred in the investigation and prosecution or defense of a person under this chapter shall be governed by the provisions of section 12-117(5), Idaho Code.

(b) The board may establish alternatives to formal disciplinary action for violations of this chapter or board rules that may include a practice remediation program to educate and remediate licensees and certificate holders as a result of practice deficiencies. An alternative to formal discipline may be offered by the board's liaison officer to a licensee or certificate holder when the officer has determined, in his the officer's sound discretion, after consultation with and approval of the board president or vice president if the president is unavailable, that animal and public safety will not be compromised and the violation can most appropriately be resolved without formal discipline. To further the purposes of an alternative to discipline, it will be offered only by or through the liaison officer and, unless the person violates its terms, the full board will not be informed of the alternative to discipline or have to expressly approve its terms. An alternative to formal discipline shall not be available and may not be offered by the liaison officer in any of the following circumstances:

- (i) Within the preceding five (5) years, the person has been formally disciplined by the board or been the subject of an alternative to discipline under this subsection;
- (ii) The person is currently on probation by the board;
- (iii) The person is currently under investigation by the board for any other offense;
- (iv) Felony charges are pending against the person, or the person is the subject of a current criminal investigation involving allegations that, if verified, may reasonably be expected to affect the person's qualifications or eligibility to remain licensed or certified under this chapter; or
- (v) The act or omission committed by the person:
 1. Caused significant harm to an animal;
 2. Created a substantial risk likely to cause significant harm to an animal; or
 3. Involved fraud or deception.

Among other terms and conditions, an alternative to formal discipline may require the licensee or certificate holder to comply with the instructions of the board's liaison officer on remedying the violation, pay a monetary civil penalty to the board of up to one thousand dollars (\$1,000) and pay all board investigative expenses and costs associated with the file, if warranted under section 12-117(5), Idaho Code.

Upon successful completion of the terms and conditions of the alternative to discipline, the violation shall not be considered "discipline," shall not be reported to any national disciplinary database, and documents and records related to the violation shall be exempt from disclosure under chapter 1, title 74, Idaho Code.

(2) Civil court proceedings. The board, the attorney general's office, a county prosecuting attorney or any citizen of this state may bring an action in the district court of either Ada county or any county where a violation is occurring, to enjoin any person from practicing veterinary medicine or practicing as a certified veterinary technician, certified euthanasia technician or any agency operating as a certified euthanasia agency without a currently valid, active license, certification, temporary permit or temporary certification. If the court finds that the person is violating the

provisions of this chapter, it shall enter an injunction restraining that person from such unlawful acts.

(3) Criminal actions. Any person who practices veterinary medicine, any person practicing as a certified veterinary technician, a certified euthanasia technician or any agency operating as a certified euthanasia agency without a currently valid, active license, certification, temporary permit or temporary certification shall be guilty of a misdemeanor and upon conviction or withheld judgment shall be fined not less than one hundred dollars (\$100), nor more than ten thousand dollars (\$10,000), or incarcerated for no more than one hundred eighty (180) days, or both fined and incarcerated, and provided that each act of such unlawful practice shall constitute a distinct and separate offense.

(4) The remedies set forth in this section are not mutually exclusive and a successful action on any one (1) remedy does not preclude action on some or all of the other remedies.

Approved March 12, 2021

CHAPTER 41
(H.B. No. 79)

AN ACT

RELATING TO THE ANNUITY CONSUMER PROTECTIONS ACT; REPEALING SECTION 41-1940, IDAHO CODE, RELATING TO SUITABILITY OF ANNUITY SALES TO CONSUMERS; AMENDING CHAPTER 19, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1940, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING ANNUITY CONSUMER PROTECTIONS; AMENDING CHAPTER 19, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1940A, IDAHO CODE, TO PROVIDE SUITABILITY DUTIES; AMENDING CHAPTER 19, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1940B, IDAHO CODE, TO PROVIDE FOR A SUPERVISION SYSTEM; AMENDING CHAPTER 19, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1940C, IDAHO CODE, TO PROVIDE FOR PRODUCER TRAINING; AMENDING CHAPTER 19, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1940D, IDAHO CODE, TO PROVIDE FOR COMPLIANCE MITIGATION; AMENDING CHAPTER 19, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1940E, IDAHO CODE, TO PROVIDE FOR RECORDKEEPING; AMENDING SECTION 41-1941, IDAHO CODE, TO REVISE PROVISIONS REGARDING DISCLOSURES; AMENDING SECTION 41-1942, IDAHO CODE, TO REVISE TERMINOLOGY; AND PROVIDING SEVERABILITY.

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

SECTION 1. That Section 41-1940, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 19, 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 41-1940, Idaho Code, and to read as follows:

41-1940. ANNUITY CONSUMER PROTECTIONS ACT. (1) Sections 41-1940 through 41-1943, Idaho Code, shall be known and may be cited as the "Annuity Consumer Protections Act."

(2) As used in the annuity consumer protections act:

(a) "Annuity" means an annuity that is an insurance product under state law that is individually solicited, whether classified as an individual or group annuity.

(b) "Best interest obligations" means that a producer, when making a recommendation of an annuity, shall act in the best interest of the con-

sumer under the circumstances known at the time the recommendation is made without placing the producer's or the insurer's financial interest ahead of the consumer's interest.

(c) "Cash compensation" means any discount, concession, fee, service fee, commission, sales charge, loan, override, or cash benefit received by a producer in connection with the recommendation or sale of an annuity from an insurer, intermediary, or directly from the consumer.

(d) "Consumer profile information" means information that is reasonably appropriate to determine whether a recommendation addresses the consumer's financial situation, insurance needs, and financial objectives, including, at a minimum, the following:

- (i) Age;
- (ii) Annual income;
- (iii) Financial situation and needs, including debts and other obligations;
- (iv) Financial experience;
- (v) Insurance needs;
- (vi) Financial objectives;
- (vii) Intended use of the annuity;
- (viii) Financial time horizon;
- (ix) Existing assets or financial products, including investment, annuity, and insurance holdings;
- (x) Liquidity needs;
- (xi) Liquid net worth;
- (xii) Risk tolerance, including but not limited to willingness to accept non-guaranteed elements in the annuity;
- (xiii) Financial resources used to fund the annuity; and
- (xiv) Tax status.

(e) "Continuing education provider" or "CE provider" means an individual or entity approved by the department to offer continuing education courses.

(f) "Contract owner" means the owner named in the annuity contract or the certificate holder in the case of a group annuity contract.

(g) "Determinable elements" means elements that are derived from processes or methods that are guaranteed at issue and that are not subject to company discretion, but where the values or amounts cannot be determined until some point after issue. These elements may include the premiums, credited interest rates (including any bonus), benefits, values, noninterest-based credits, charges, or elements of formulas used to determine any of these. An element is considered determinable only if it is calculated from underlying determinable elements or from both determinable and guaranteed elements.

(h) "FINRA" means the financial industry regulatory authority or succeeding agency.

(i) "Generic name" means a short title descriptive of the annuity contract being applied for or illustrated, such as "single premium deferred annuity."

(j) "Guaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, noninterest-based credits, charges, or elements of formulas used to determine any of these that are promised and determined at issue. An element is considered guaranteed if all of the underlying elements that go into its calculation are guaranteed.

(k) "Insurance producer" or "producer" has the same meaning as provided in chapter 10, title 41, Idaho Code. For purposes of the annuity consumer protections act, "producer" includes an insurer where no producer is involved.

(l) "Insurer" means a company required to be licensed under the laws of this state to provide insurance products, including annuities.

- (m) "Intermediary" means an entity contracted directly with an insurer or with another entity contracted with an insurer to facilitate the sale of the insurer's annuities by producers.
- (n) "Material conflict of interest" means a financial interest of the producer in the sale of an annuity that a reasonable person would expect to influence the impartiality of a recommendation. It does not include cash compensation or noncash compensation.
- (o) "Noncash compensation" means any form of compensation that is not cash, including but not limited to health insurance, office rent, office support, and retirement benefits.
- (p) "Non-guaranteed elements" means the premiums, credited interest rates including any bonus, benefits, values, dividends, noninterest-based credits, charges, or elements of formulas used to determine any of these that are subject to company discretion and that are not guaranteed at issue. An element is considered non-guaranteed if any of the underlying non-guaranteed elements are used in its calculation.
- (q) "Recommendation" means advice provided by a producer to an individual consumer that was intended to result or does result in a purchase, exchange, or replacement of an annuity in accordance with that advice. It does not include general communication to the public, generalized customer services assistance or administrative support, general educational information and tools, prospectuses, or other product and sales material.
- (r) "Replacement" means a transaction in which a new policy or contract is purchased and in which it is known or should be known to the proposing producer or insurer that, by reason of the transaction, an existing policy or contract has been or is to be:
- (i) Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer, or terminated;
 - (ii) Converted to reduced paid-up insurance, continued as extended term insurance, or reduced in value by the use of nonforfeiture benefits or other policy values;
 - (iii) Amended to effect either a reduction in benefits or in the term for which coverage would remain in force or for which benefits would be paid;
 - (iv) Reissued with any reduction in cash value; or
 - (v) Used in a financed purchase.
- (s) "SEC" means the United States securities and exchange commission.
- (3) Unless otherwise specifically included, the annuity consumer protections act shall not apply to transactions involving:
- (a) Contracts used to fund:
 - (i) An employee pension or welfare benefit plan that is covered by the employee retirement and income security act of 1974 (ERISA);
 - (ii) A plan described by sections 401(a), 401(k), 403(b), 408(k), or 408(p) of the Internal Revenue Code, as amended, if established or maintained by an employer;
 - (iii) A governmental or church plan defined in section 414 of the Internal Revenue Code, a governmental or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax-exempt organization under section 457 of the Internal Revenue Code; or
 - (iv) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;
 - (b) Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or
 - (c) Formal prepaid funeral contracts, also known as prepaid prearrangement sales or prearrangement sales contracts, as defined under section 54-1131(7), Idaho Code, and as regulated in chapter 11, title 54, Idaho Code.

(4) The director may promulgate rules implementing the provisions of the annuity consumer protections act for the protection of consumers in annuity transactions.

(5) Nothing in the annuity consumer protections act shall be construed to create or imply a private cause of action for a violation of the annuity consumer protections act or rules promulgated pursuant thereto.

SECTION 3. That Chapter 19, 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 41-1940A, Idaho Code, and to read as follows:

41-1940A. ANNUITY CONSUMER PROTECTIONS -- SUITABILITY DUTIES. (1) This section through section 41-1940E, Idaho Code, shall apply to any sale or recommendation of an annuity.

(a) The purpose of these sections is to require producers, as defined in the annuity consumer protections act, to act in the best interest of the consumer when making a recommendation of an annuity and to require insurers to establish and maintain a system to supervise recommendations so that the insurance needs and financial objectives of consumers at the time of the transaction are effectively addressed.

(b) Nothing in the annuity consumer protections act shall be construed to subject a producer to civil liability under the best interest standard of care outlined in this section or under standards governing the conduct of a fiduciary or a fiduciary relationship.

(2) Unless otherwise specifically included, this section through section 41-1940E, Idaho Code, shall not apply to transactions involving:

(a) Contracts excluded by section 41-1940(3), Idaho Code; or

(b) Direct response solicitations where there is no recommendation based on information collected from the consumer pursuant to this section.

(3) Best interest obligations. A producer, when making a recommendation of an annuity, shall act in the best interest of the consumer under the circumstances known at the time the recommendation is made without placing the producer's or the insurer's financial interest ahead of the consumer's interest. A producer has acted in the best interest of the consumer if he has satisfied the following obligations regarding care, disclosure, conflict of interest, and documentation:

(a) Care obligation. The producer, in making a recommendation, shall exercise reasonable diligence, care, and skill to:

(i) Know the consumer's financial situation, insurance needs, and financial objectives;

(ii) Understand the available recommendation options after making a reasonable inquiry into options available to the producer;

(iii) Have a reasonable basis to believe the recommended option effectively addresses the consumer's financial situation, insurance needs, and financial objectives over the life of the product, as evaluated in light of the consumer profile information; and

(iv) Communicate the basis or bases of the recommendation.

(b) The requirements under paragraph (a) of this subsection include making reasonable efforts to obtain consumer profile information from the consumer prior to the recommendation of an annuity.

(c) The requirements under paragraph (a) of this subsection require a producer to consider the types of products the producer is authorized and licensed to recommend or sell that address the consumer's financial situation, insurance needs, and financial objectives. This does not require analysis or consideration of any products outside the authority and license of the producer or other possible alternative products or strategies available in the market at the time of the recommendation.

Producers shall be held to standards applicable to producers with similar authority and licensure.

(d) The requirements under this subsection do not create a fiduciary obligation or relationship and create only a regulatory obligation as established in this section.

(e) The consumer profile information, characteristics of the insurer, and product costs, rates, benefits, and features are those factors generally relevant in making a determination whether an annuity effectively addresses the consumer's financial situation, insurance needs, and financial objectives, but the level of importance of each factor under the care obligation of this subsection may vary depending on the facts and circumstances of a particular case. However, each factor may not be considered in isolation.

(f) The requirements under paragraph (a) of this subsection include having a reasonable basis to believe the consumer would benefit from certain features of the annuity, such as annuitization, death or living benefit, or other insurance-related features.

(g) The requirements under paragraph (a) of this subsection apply to the particular annuity as a whole and the underlying subaccounts to which funds are allocated at the time of purchase or exchange of an annuity and to riders and similar producer enhancements, if any.

(h) The requirements under paragraph (a) of this subsection do not mean the annuity with the lowest onetime or multiple occurrence compensation structure shall necessarily be recommended.

(i) The requirements under paragraph (a) of this subsection do not mean the producer has ongoing monitoring obligations under the care obligation pursuant to this subsection, although such an obligation may be separately owed under the terms of a fiduciary, consulting, investment advising, or financial planning agreement between the consumer and the producer.

(j) In the case of an exchange or replacement of an annuity, the producer shall consider the whole transaction, which includes taking into consideration whether:

(i) The consumer will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits such as death, living, or other contractual benefits, or be subject to increased fees, investment advisory fees, or charges for riders and similar product enhancements;

(ii) The replacing product would substantially benefit the consumer in comparison to the replaced product over the life of the product; and

(iii) The consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding sixty (60) months.

(k) Nothing in this section shall be construed to require a producer to obtain any license other than a producer license with the appropriate line of authority to sell, solicit, or negotiate insurance in this state, including but not limited to any securities license, in order to fulfill the duties and obligations contained in this section; provided the producer does not give advice or provide services that are otherwise subject to securities laws or engage in any other activity requiring other professional licenses.

(4) Disclosure obligation.

(a) Prior to the recommendation or sale of an annuity, the producer shall prominently disclose to the consumer on a form prescribed by the director or substantially similar thereto the following:

(i) A description of the scope and terms of the relationship with the consumer and the role of the producer in the transaction;

(ii) An affirmative statement on whether the producer is licensed and authorized to sell the following products:

1. Fixed annuities;
2. Fixed indexed annuities;
3. Variable annuities;
4. Life insurance;
5. Mutual funds;
6. Stocks and bonds; and
7. Certificates of deposit;

(iii) An affirmative statement describing the insurers the producer is authorized, contracted (or appointed), or otherwise able to sell insurance products for, using the following descriptions:

1. From one (1) insurer;
2. From two (2) or more insurers; or
3. From two (2) or more insurers although primarily contracted with one (1) insurer;

(iv) A description of the sources and types of cash compensation and noncash compensation to be received by the producer, including whether the producer is to be compensated for the sale of a recommended annuity by commission as part of premium or other remuneration received from the insurer, intermediary, or other producer or by fee as a result of a contract for advice or consulting services; and

(v) A notice of the consumer's right to request additional information regarding cash compensation described in paragraph (b) of this subsection.

(b) Upon request of the consumer or the consumer's designated representative, the producer shall disclose:

(i) A reasonable estimate of the amount of cash compensation to be received by the producer, which may be stated as a range of amounts or percentages; and

(ii) Whether the cash compensation is a onetime or multiple occurrence amount and, if a multiple occurrence amount, the frequency and amount of the occurrence, which may be stated as a range of amounts or percentages.

(c) Prior to or at the time of the recommendation or sale of an annuity, the producer shall have a reasonable basis to believe the consumer has been informed of various features of the annuity, such as the potential surrender period and surrender charge, potential tax penalty if the consumer sells, exchanges, surrenders, or annuitizes the annuity, mortality and expense fees, investment advisory fees, any annual fees, potential charges for and features of riders or other options of the annuity, limitations on interest returns, potential changes in non-guaranteed elements of the annuity, insurance and investment components, and market risk. The disclosure requirements under this subsection are intended to supplement and not replace the disclosure requirements under section 41-1941, Idaho Code.

(5) Conflict of interest obligation. A producer shall identify and avoid or reasonably manage and disclose material conflicts of interest, including material conflicts of interest related to an ownership interest.

(6) Documentation obligation. A producer shall at the time of recommendation or sale:

(a) Make a written record of any recommendation and the basis for the recommendation subject to this section;

(b) Obtain a consumer-signed statement on a form prescribed by the director or substantially similar to such form, documenting:

(i) A customer's refusal to provide the consumer profile information, if any; and

(ii) A customer's understanding of the ramifications of not providing his consumer profile information or providing insufficient consumer profile information; and

(c) Obtain a consumer-signed statement on a form prescribed by the director or substantially similar to such form, acknowledging the annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on the producer's recommendation.

(7) Application of the best interest obligation. Any requirement applicable to a producer under this section shall apply to every producer who has exercised material control or influence in the making of a recommendation and has received direct compensation as a result of the recommendation or sale, regardless of whether the producer has had any direct contact with the consumer. Activities such as providing or delivering marketing or educational materials, product wholesaling or other back office product support, and general supervision of a producer do not, in and of themselves, constitute material control or influence.

(8) Transactions not based on a recommendation.

(a) Except as provided under paragraph (b) of this subsection, a producer shall have no obligation to a consumer under subsection (3) of this section related to any annuity transaction if:

(i) No recommendation is made;

(ii) A recommendation was made and was later found to have been prepared based on materially inaccurate information provided by the consumer;

(iii) A consumer refuses to provide relevant consumer profile information and the annuity transaction is not recommended; or

(iv) A consumer decides to enter into an annuity transaction that is not based on a recommendation of the producer.

(b) An insurer's issuance of an annuity subject to paragraph (a) of this subsection shall be reasonable under all the circumstances actually known to the insurer at the time the annuity is issued.

(9) Prohibited practices. Neither a producer nor an insurer shall dissuade, or attempt to dissuade, a consumer from:

(a) Truthfully responding to an insurer's request for confirmation of the consumer profile information;

(b) Filing a complaint; or

(c) Cooperating with the investigation of a complaint.

(10) Safe harbor for financial professionals.

(a) Recommendations and sales of annuities made in compliance with comparable standards shall satisfy the requirements under this section. This subsection applies to all recommendations and sales of annuities made by financial professionals in compliance with business rules, controls, and procedures that satisfy a comparable standard even if such standard would not otherwise apply to the product or recommendation at issue. However, nothing in this subsection shall limit the insurance director's ability to investigate and enforce the provisions of this section.

(b) Nothing in paragraph (a) of this subsection shall limit the insurer's obligation to comply with section 41-1940B(1), Idaho Code, although the insurer may base its analysis on information received from either the financial professional or the entity supervising the financial professional.

(c) For paragraph (a) of this subsection to apply, an insurer shall:

(i) Monitor the relevant conduct of the financial professional seeking to rely on paragraph (a) of this subsection or the entity responsible for supervising the financial professional, such as the financial professional's broker-dealer or an investment adviser registered under federal securities laws, using information collected in the normal course of an insurer's business; and

- (ii) Provide to the entity responsible for supervising the financial professional seeking to rely on paragraph (a) of this subsection, such as the financial professional's broker-dealer or investment adviser registered under federal securities laws, information and reports that are reasonably appropriate to assist such entity to maintain its supervision system.
- (d) For purposes of this subsection, "financial professional" means a producer that is regulated and acting as:
 - (i) A broker-dealer registered under federal securities laws or a registered representative of a broker-dealer;
 - (ii) An investment adviser registered under federal securities laws or an investment adviser representative associated with the federal registered investment adviser; or
 - (iii) A plan fiduciary under section 3(21) of the employee retirement income security act of 1974 (ERISA) or a fiduciary under section 4975(e) (3) of the Internal Revenue Code or any amendments or successor statutes thereto.
- (e) For purposes of this subsection, "comparable standards" means:
 - (i) With respect to broker-dealers and registered representatives of broker-dealers, applicable SEC and FINRA rules pertaining to best interest obligations and supervision of annuity recommendations and sales, including but not limited to regulation best interest and any amendments or successor regulations thereto;
 - (ii) With respect to investment advisers registered under federal securities laws or investment adviser representatives, the fiduciary duties and all other requirements imposed on such investment advisers or investment adviser representatives by contract or under the investment advisers act of 1940, including but not limited to the form ADV and interpretations; and
 - (iii) With respect to plan fiduciaries or fiduciaries, the duties, obligations, prohibitions, and all other requirements attendant to such status under ERISA or the Internal Revenue Code and any amendments or successor statutes thereto.

SECTION 4. That Chapter 19, 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 41-1940B, Idaho Code, and to read as follows:

41-1940B. ANNUITY CONSUMER PROTECTION -- SUPERVISION SYSTEM. (1) Except as permitted under section 41-1940A(8), Idaho Code, an insurer may not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity would effectively address the particular consumer's financial situation, insurance needs, and financial objectives based on the consumer's consumer profile information.

(2) An insurer shall establish and maintain a supervision system that is reasonably designed to achieve the insurer's and its producers' compliance with the annuity consumer protections act, including but not limited to the following:

- (a) The insurer shall establish and maintain reasonable procedures to inform its producers of the requirements of the annuity consumer protections act and shall incorporate the requirements of such act into relevant producer training manuals;
- (b) The insurer shall establish and maintain standards for producer product training and shall establish and maintain reasonable procedures to require its producers to comply with the requirements of section 41-1940C, Idaho Code;
- (c) The insurer shall provide product-specific training and training materials that explain all material features of its annuity products to its producers;

(d) The insurer shall establish and maintain procedures for the review of each recommendation prior to issuance of an annuity that are designed to ensure there is a reasonable basis to determine that the recommended annuity would effectively address the particular consumer's financial situation, insurance needs, and financial objectives. Such review procedures may apply a screening system for the purpose of identifying selected transactions for additional review and may be accomplished electronically or through other means, including but not limited to physical review. Such an electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria;

(e) The insurer shall establish and maintain reasonable procedures to detect recommendations that are not in compliance with section 41-1940A, Idaho Code. This may include but is not limited to confirmation of the consumer's consumer profile information, systematic customer surveys, producer and consumer interviews, confirmation letters, producer statements or attestations, and programs of internal monitoring. Nothing in this paragraph prevents an insurer from complying with this paragraph by applying sampling procedures or by confirming the consumer profile information or other required information under that section after issuance or delivery of the annuity;

(f) The insurer shall establish and maintain reasonable procedures to assess, prior to or upon issuance or delivery of an annuity, whether a producer has provided to the consumer the information required to be provided under the annuity consumer protections act;

(g) The insurer shall establish and maintain reasonable procedures to identify and address suspicious consumer refusals to provide consumer profile information;

(h) The insurer shall establish and maintain reasonable procedures to identify and eliminate any sales contests, sales quotas, bonuses, and noncash compensation that are based on the sales of specific annuities within a limited period of time. The requirements of this paragraph are not intended to prohibit the receipt of health insurance, office rent, office support, retirement benefits, or other employee benefits by employees as long as those benefits are not based on the volume of sales of a specific annuity within a limited period of time; and

(i) The insurer shall annually provide a written report to senior management, including to the senior manager responsible for audit functions, which report shall detail a review, with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.

(3) Nothing in this section restricts an insurer from contracting for performance of a function, including maintenance of procedures, required under this section.

(a) An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties pursuant to section 41-1940D, Idaho Code, regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with paragraph (b) of this subsection.

(b) An insurer's supervision system under this section shall include supervision of contractual performance under this section. This includes but is not limited to the following:

(i) Monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed; and

(ii) Annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does represent, that the function is properly performed.

- (4) An insurer is not required to include in its system of supervision:
- (a) A producer's recommendations to consumers of products other than the annuities offered by the insurer; or
 - (b) Consideration of or comparison to options available to the producer or compensation relating to those options other than annuities or other products offered by the insurer.

SECTION 5. That Chapter 19, 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 41-1940C, Idaho Code, and to read as follows:

41-1940C. ANNUITY CONSUMER PROTECTION -- PRODUCER TRAINING. (1) A producer shall not solicit the sale of an annuity product unless the producer has adequate knowledge of the product to recommend the annuity and the producer is in compliance with the insurer's standards for product training. A producer may rely on insurer-provided product-specific training standards and materials to comply with this subsection.

(2) A producer who engages in the sale of annuity products shall complete a onetime four (4) credit training course approved by the department and provided by the department-approved education provider. Individuals who obtain a life insurance line of authority on or after July 1, 2021, may not engage in the sale of annuities until the annuity training course required under this section has been completed.

(a) The minimum length of the training required under this subsection shall be sufficient to qualify for at least four (4) continuing education credits but may be longer.

(b) The training required under this subsection shall include information on the following topics:

- (i) The types of annuities and various classifications of annuities;
- (ii) Identification of the parties to an annuity;
- (iii) How product-specific annuity contract features affect consumers;
- (iv) The application of income taxation of qualified and nonqualified annuities;
- (v) The primary uses of annuities; and
- (vi) Appropriate standard of conduct, sales practices, replacement, and disclosure requirements.

(c) Providers of courses intended to comply with this subsection shall cover all topics listed in the prescribed outline and shall not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline.

(d) A provider of an annuity training course intended to comply with this subsection shall register as a continuing education provider in this state and comply with the rules and guidelines applicable to producer continuing education courses as set forth by the department.

(e) A producer who has completed an annuity training course approved by the department of insurance prior to July 1, 2021, shall, within six (6) months after July 1, 2021, complete either:

- (i) A new four (4) credit training course approved by the department of insurance after July 1, 2021; or
- (ii) An additional onetime one (1) credit training course approved by the department and provided by the department-approved education provider on appropriate sales practices, replacement, and disclosure requirements under the annuity consumer protections act.

(f) Providers of annuity training shall comply with the reporting requirements and shall issue certificates of completion as set forth by the department.

(g) The satisfaction of the training requirements of another state that are substantially similar to the provisions of this subsection shall be deemed to satisfy the training requirements of this subsection in this state.

(h) The satisfaction of the components of the training requirements of any course or courses with components substantially similar to the provisions of this subsection shall be deemed to satisfy the training requirements of this subsection in this state.

(i) An insurer shall verify that a producer has completed the annuity training course required under this subsection before allowing the producer to sell an annuity product for that insurer. An insurer may satisfy its responsibility under this subsection by obtaining certificates of completion of the training course or obtaining reports provided by director-sponsored database systems or vendors or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved insurance education providers.

SECTION 6. That Chapter 19, 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 41-1940D, Idaho Code, and to read as follows:

41-1940D. ANNUITY CONSUMER PROTECTION -- COMPLIANCE MITIGATION. An insurer is responsible for compliance with the annuity consumer protections act. If a violation occurs, either because of the action or inaction of the insurer or its producer, the director may order:

(1) An insurer to take reasonably appropriate corrective action for any consumer harmed by a failure to comply with this regulation by the insurer, by an entity contracted to perform the insurer's supervisory duties, or by the producer;

(2) A general agency, an independent agency, or the producer to take reasonably appropriate corrective action for any consumer harmed by the producer's violation of this regulation; and

(3) Appropriate penalties and sanctions.

SECTION 7. That Chapter 19, 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 41-1940E, Idaho Code, and to read as follows:

41-1940E. ANNUITY CONSUMER PROTECTION -- RECORDKEEPING. (1) Insurers, general agents, independent agencies, and producers shall maintain or be able to make available to the director records of the information collected from the consumer, disclosures made to the consumer including summaries of oral disclosures, and other information used in making the recommendations that were the basis for insurance transactions for five (5) years after the natural life of the contract. An insurer is permitted but shall not be required to maintain documentation on behalf of a producer.

(2) Records required to be maintained by the annuity consumer protections act may be maintained in paper, photographic, micro-process, magnetic, mechanical, or electronic media or by any process that accurately reproduces the actual document.

SECTION 8. That Section 41-1941, Idaho Code, be, and the same is hereby amended to read as follows:

41-1941. ANNUITY SALES TO CONSUMERS PROTECTIONS -- DISCLOSURES. (1) In this section, the following definitions shall apply unless the context otherwise requires:

(a) ~~"Contract owner" means the owner named in the annuity contract or certified holder in the case of a group annuity contract.~~

(b) ~~"Determinable elements" means elements that are derived from processes or methods that are guaranteed at issue and that are not subject to company discretion, but where the values or amounts cannot be determined until some point after issue. These elements may include the premiums, credited interest rates (including any bonus), benefits, values, noninterest-based credits, charges or elements of formulas used to determine any of these. An element is considered determinable if it is calculated from underlying determinable elements only or from both determinable and guaranteed elements.~~

(c) ~~"Generic name" means a short title descriptive of the annuity contract being applied for or illustrated such as "single premium deferred annuity."~~

(d) ~~"Guaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, noninterest-based credits, charges or elements of formulas used to determine any of these that are promised and determined at issue. An element is considered guaranteed if all of the underlying elements that go into its calculation are guaranteed.~~

(e) ~~"Insurance producer" or "producer" has the same meaning as in chapter 10, title 41, Idaho Code.~~

(f) ~~"Nonguaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, noninterest-based credits, charges or elements of formulas used to determine any of these that are subject to company discretion and that are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation.~~

(g) ~~"Structured settlement annuity" means a qualified funding asset as defined in section 130(d) of the Internal Revenue Code or an annuity that would be a qualified funding asset under section 130(d) of the Internal Revenue Code but for the fact that it is not owned by an assignee under a qualified assignment.~~

(2) The provisions of this section shall apply to all group and individual annuity contracts and certificates except:

(a) Registered or nonregistered variable annuities or other registered products;

(b) Immediate and deferred annuities that contain no non-guaranteed elements; and

(c) ~~Annuities used to fund:~~

(i) ~~An employee pension plan that is covered by the employee retirement income security act of 1974, title 29, U.S.C. 1001 through 1461;~~

(ii) ~~A plan described in section 401(a), 401(k) or 403(b) of the Internal Revenue Code, where the plan, for purposes of the employee retirement income security act of 1974, is established or maintained by an employer;~~

(iii) ~~A governmental or church plan as defined in section 414 of the Internal Revenue Code or a deferred compensation plan of a state or local government or a tax-exempt organization pursuant to section 457 of the Internal Revenue Code; or~~

(iv) ~~A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.~~

~~(d) Structured settlement annuities. Contracts excluded by section 41-1940(3), Idaho Code.~~

(32) If the application for an annuity contract is taken in a face-to-face meeting, the applicant, at or before the time of application and at the time of contract delivery, shall be given both the disclosure document and the buyer's guide in the form prescribed by the director. The disclosure document shall be dated and signed by the prospective annuity owner and producer and the company shall maintain a signed copy for a period of five (5) years after the natural life of the contract.

(43) If the application for an annuity contract is taken by means other than in a face-to-face meeting, the applicant shall be sent both the disclosure document and the buyer's guide at the time of application and at the time of contract delivery. The producer and the company shall maintain a signed copy of the disclosure document for a period of five (5) years after the natural life of the contract.

(54) A solicitation for an annuity contract provided in other than a face-to-face meeting shall include a statement that the proposed applicant may contact the insurer for a free annuity buyer's guide.

(65) At a minimum, the following information shall be included in the disclosure document required to be provided under this section in a form or forms prescribed by the director or substantially similar to such form or forms:

- (a) The generic name of the contract, the company product name, if different, the form number and the fact that it is an annuity;
- (b) The insurer's name and address;
- (c) A description of the contract and its benefits, emphasizing its long-term nature and including the following examples where appropriate:

- (i) The guaranteed, non-guaranteed and determinable elements of the contract, their limitations, if any, and an explanation of how they operate;
- (ii) An explanation of the initial crediting rate, specifying any bonus or introductory portion, the duration of the rate and the fact that rates may change from time to time and are not guaranteed;
- (iii) The periodic income options both on a guaranteed and non-guaranteed basis;
- (iv) Any value reductions caused by withdrawals from or surrender of the contract;
- (v) How values in the contract can be accessed;
- (vi) The death benefit, if available, and how it will be calculated;
- (vii) A summary of the federal tax status of the contract and any penalties applicable on withdrawal of values from the contract; and
- (viii) The impact of any rider, such as a long-term care rider.

(d) The specific dollar amount or percentage charges and fees shall be listed with an explanation of how they apply;

(e) Information about the current guaranteed rate for new contracts that contains a clear notice that the rate is subject to change;

(f) Whenever projections for non-guaranteed elements of a contract are provided in the disclosure document, equal prominence shall be given to guaranteed elements; and

(g) Terms used in the disclosure document shall be defined in clear and concise language that facilitates the understanding of a typical person within the segment of the public to which the disclosure document is directed.

(76) For annuities in the payout period with changes in nonguaranteed elements and for the accumulation period of a deferred annuity, the insurer shall provide each contract owner with a report, at least annually, on the status of the contract. Such report shall contain at a minimum the following information:

- (a) The beginning and end dates of the current report period;
- (b) The accumulation and cash surrender value, if any, at the end of the previous report period and at the end of the current report period;
- (c) The total amounts, if any, that have been credited, charged to the contract value or paid during the current report period; and
- (d) The amount of outstanding loans, if any, as of the end of the current report period.

~~(8) The director may promulgate rules pursuant to this section including, but not limited to, more fully implementing model rules or laws developed by the national association of insurance commissioners that provide standards for the disclosure of certain minimum information in connection with the sale of annuity contracts.~~

~~(9) Nothing in this section shall be construed to create or imply a private cause of action for a violation of the provisions of this section or rules promulgated pursuant to this section.~~

SECTION 9. That Section 41-1942, Idaho Code, be, and the same is hereby amended to read as follows:

41-1942. ADVERTISEMENT OF INTEREST-INDEXED ANNUITIES. No issuer of interest-issuedindexed annuity contracts shall advertise interest-indexed annuity contracts, regardless of the advertising medium, without prior approval of such advertisement from the director. For purposes of this section, "interest-indexed annuity" means a type of annuity whose credited interest is linked to an external reference at any time during the term of the contract and shall include contracts, application forms where written application is required and is to be made a part of the contract, printed riders, endorsements, and renewal certificates.

SECTION 10. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

Approved March 12, 2021

CHAPTER 42
(H.B. No. 78)

AN ACT

RELATING TO INSURANCE; REPEALING SECTION 41-1027, IDAHO CODE, RELATING TO THE RETURN OF A CERTAIN LICENSE; AMENDING SECTION 41-1233, IDAHO CODE, TO REMOVE LANGUAGE REGARDING INTEREST ON A DELINQUENT TAX AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-1612, IDAHO CODE, TO REMOVE LANGUAGE REGARDING CERTAIN FILINGS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 41-2506, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-3423, IDAHO CODE, TO REMOVE LANGUAGE REGARDING INVESTMENTS BY A SERVICE CORPORATION; REPEALING CHAPTER 35, TITLE 41, IDAHO CODE, RELATING TO INSURANCE OF PUBLIC PROPERTY AND RISKS; AMENDING SECTION 67-5773, IDAHO CODE, TO REVISE PROVISIONS REGARDING POWERS AND DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION WITH REGARD TO RISK MANAGEMENT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-1108, IDAHO CODE, TO REMOVE A CODE REFERENCE; AMENDING SECTION 59-803, IDAHO CODE, TO REMOVE A CODE REFERENCE, TO PROVIDE A PAYMENT MANNER FOR THE PREMIUM ON CERTAIN SURETY BONDS, 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 41-1027, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 41-1233, Idaho Code, be, and the same is hereby amended to read as follows:

41-1233. REPORT AND TAX OF INDEPENDENTLY PROCURED COVERAGES. (1) Every insured who in this state procures or causes to be procured or continues or renews insurance in an unauthorized foreign insurer, or any self-insurer who in this state so procures or continues excess loss, catastrophe or other insurance, upon a subject of insurance resident, located or to be performed within this state, other than insurance procured through a surplus line broker pursuant to the surplus line law of this state or exempted from tax pursuant to section 41-1212, Idaho Code, shall within thirty (30) days after the date such insurance policy was so received by the insured, continued or renewed file a written report of the same with the surplus line association on forms designated by the director and furnished to the insured upon request. The report shall show the name and address of the insured or insureds, name and address of the insurer, the subject of the insurance, a general description of the coverage, the amount of premium currently charged therefor, and such additional pertinent information as the director reasonably requests. If the insurance covers also a subject of insurance resident, located or to be performed outside this state, a proper pro rata portion of the entire premium payable for all such insurance shall be allocated to this state for the purposes of this section.

(2) Any insurance in an unauthorized insurer procured through negotiations or an application in whole or in part occurring or made within or from within this state, or for which premiums in whole or in part are remitted directly or indirectly from within this state, shall be deemed to be insurance procured or continued or renewed in this state within the intent of subsection (1) of this section.

(3) The insured with respect to the obligation, chose in action, or right represented by such insurance shall be subject to section 41-1229, Idaho Code, as it pertains to premium tax. Within thirty (30) days after

the insurance policy was so received by the insured, continued or renewed, and coincidentally with the filing with the surplus line association of the report provided for in subsection (1) of this section, the insured shall pay the amount of the tax to the director and a stamping fee to the surplus line association.

~~(4) The tax imposed hereunder if delinquent shall bear interest at the rate of six percent (6%) per annum, compounded annually.~~

~~(5) The tax shall be collectible from the insured by civil action brought by the director, or by distraint.~~

~~(6) This section does not abrogate or modify any provision of sections 41-1201 (representing or aiding unauthorized insurer prohibited), 41-1202 (representing or aiding unauthorized insurer prohibited -- penalty), or 41-1203 (suits by unauthorized insurer prohibited), Idaho Code.~~

~~(7) This section does not apply as to life or disability insurances.~~

SECTION 3. That Section 41-1612, Idaho Code, be, and the same is hereby amended to read as follows:

41-1612. ADHERENCE TO FILINGS. ~~(1) No insurer shall issue, renew, or continue in force in this state any worker's compensation insurance at premium rates which are less than the rates applicable under the filings in effect for the insurer, or in effect in accordance with section 41-1607 (exemption from filing) or 41-1613 (excess rates), Idaho Code.~~

~~(2) No filing shall contain a minimum premium that is less than one hundred fifty dollars (\$150) or greater than three hundred dollars (\$300).~~

~~(3) With respect to determination of premiums for partnerships and sole proprietorships, filings shall include a premium calculated on an annual salary of thirteen thousand dollars (\$13,000).~~

SECTION 4. That Section 41-2506, Idaho Code, be, and the same is hereby amended to read as follows:

41-2506. CANCELLATION OF POLICIES -- DEFINITIONS. (1) As used in sections 41-2506 through 41-2512 of this act, Idaho Code:

(a) "Policy" means any one (1) or more of the following portions of an automobile insurance policy, delivered or issued for delivery in this state, insuring a natural person as named insured, or one (1) or more related individuals resident of the same household, and under which the insured vehicles therein designated are motor vehicles of the private passenger or station wagon type (not used for public or livery conveyance of passengers, or rented to others) or any other four-wheel motor vehicles with a load capacity of fifteen thousand (15,000) pounds or less not used in the occupation, profession, or business of the insured and ;

(i) Insuring against bodily injury and property damage liability;

(ii) Insuring against physical damage;

(iii) Insuring against risks commonly included under "comprehensive coverage";

(iv) Relating to medical payments;

(v) Providing uninsured motorist coverage.

(b) Policy does not mean automobile liability insurance:

(i) Issued under an assigned risk plan; or

~~(ii) Insuring more than four (4) motor vehicles; or~~

~~(iii) Covering garage, automobile sales agency, repair shop, service station, or public parking place operation hazards.~~

(c) "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy superseding at the end of the policy period a policy previously issued and delivered by the same insurer, or the issuance and

delivery of a certificate or notice extending the term of a policy beyond its policy period or term. Any policy with a policy period or term of less than six (6) months or any policy with no fixed expiration date shall for the purpose of this section be considered as if written for successive policy periods or terms of six (6) months.

(d) "Nonpayment of premium" means failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on a policy or any installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.

(2) Sections 41-2506 through 41-2512 ~~of this act,~~ Idaho Code, shall not apply to any policy which that has been in effect less than sixty (60) days at the time notice of cancellation is mailed or delivered by the insurer, unless it is a renewal policy.

SECTION 5. That Section 41-3423, Idaho Code, be, and the same is hereby amended to read as follows:

41-3423. INVESTMENTS. ~~(1) A service corporation shall invest and have invested its funds in the following investments only:~~

- ~~(a) Cash on deposit or in savings accounts in banks or trust companies;~~
- ~~(b) Deposits in or shares of such savings and loan associations as are insured by an instrumentality of the United States government, and not in excess of the amount of such insurance in any one (1) such institution; and~~
- ~~(c) Real estate for use as a home office and/or one or more branch offices, at a cost not exceeding ten per cent (10%) of the corporation's assets at the time of investment, unless a larger amount has been approved by the director.~~

~~(2) The investable funds of a service corporation may also be invested in securities and other investments permitted by and pursuant to the provisions of chapter 7, title 41, Idaho Code, and for the purposes of chapter 7, title 41, Idaho Code, a service corporation shall be deemed to be an "insurer."~~

SECTION 6. That Chapter 35, Title 41, Idaho Code, be, and the same is hereby repealed.

SECTION 7. That Section 67-5773, Idaho Code, be, and the same is hereby amended to read as follows:

67-5773. POWERS AND DUTIES -- RISK MANAGEMENT. (1) The director of the department of administration shall:

(a) Determine the nature and extent of needs for surety bonds and insurance coverages of all kinds, other than life and disability insurances, as to risks and property of all offices, departments, divisions, boards, commissions, institutions, agencies, officers, agents, employees, and operations of the government of the state of Idaho, the premiums on which are payable in whole or in part from funds of the state.

(b) Determine the character, terms, and amounts of ~~insurance~~ coverages required by such needs.

(c) Within funds available therefor from each respective office, department, division, board, commission, institution, agency or operation with respect to coverage to be provided to it, negotiate for, procure, purchase, and have placed or continued in effect all such ~~insurance~~ coverages and services as may reasonably be obtainable, whether from insurers or brokers duly authorized to transact business in this state.

(d) Administer all such coverages on behalf of the insured, including making and settlement of loss claims arising thereunder. The director, with the advice of the attorney general, may cause suit to be brought with respect to any such coverage or loss.

(e) Within available funds and personnel, make periodic inspection or appraisal of premises, property and risks as to conditions affecting insurability, risk, and premium rate, and submit a written report of each such inspection or appraisal together with recommendations, if any, to the officer, department, or agency in direct charge of such premises, property or risks.

(f) Perform such other duties and exercise such other powers as are provided by law.

(g) Establish a risk management advisory committee. The director shall consult with the advisory committee in the performance of those duties enumerated above in this subsection.

(2) As to all such needs and coverages, the director shall give due consideration to information furnished by and recommendations of any office, department, division, board, commission, institution or agency.

SECTION 8. 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).~~

SECTION 9. That Section 59-803, Idaho Code, be, and the same is hereby amended to read as follows:

59-803. SURETY BOND REQUIRED. (1) With the advice of the head of each agency, and taking into consideration employee duties and responsibilities, the administrator shall designate individually or by class the employees required to give official bond to the state and the amount of the bond required for each individual or class.

(2) If some other law sets forth an amount in which an employee is to be bonded, the administrator shall procure a bond in at least the amount set forth in such law, but may require a bond in a greater amount than as set forth in such law if he determines, in accordance with the procedures set forth in subsection (1) above of this section, that it would be in the best interest of the state to require a bond in a greater amount.

(3) The premium on the official surety bonds procured by the administrator in accordance with subsections (1) and (2) above of this section shall be paid from funds appropriated or available for the employer or agency in the manner prescribed in section 41-3503, Idaho Code of the employees for which the official surety bonds are procured.

(4) The administrator shall procure all official bonds for employees, and shall, by negotiations or otherwise, endeavor to purchase the best coverage which that can be obtained for the least cost.

SECTION 10. Section 3 of this act shall be in full force and effect on and after January 1, 2022.

Approved March 12, 2021

CHAPTER 43
(H.B. No. 83)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR FISCAL YEAR 2021; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR FISCAL YEAR 2021; 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 227, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Department of Health and Welfare for the Substance Abuse Treatment and Prevention Program \$4,000,000 from the Cooperative Welfare (Federal) Fund to be expended for trustee and benefit payments for the period July 1, 2020, through June 30, 2021, for the purpose of substance abuse disorder treatment.

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

Approved March 12, 2021

CHAPTER 44
(H.B. No. 109)

AN ACT

RELATING TO THE APPROPRIATION TO THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 2021; APPROPRIATING ADDITIONAL MONEYS TO THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 2021; 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 153, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Commission for the Blind and Visually Impaired \$27,900 from the Adaptive Aids and Appliances Fund to be expended for capital outlay for the period July 1, 2020, through June 30, 2021, for the purpose of purchasing a vehicle.

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

Approved March 12, 2021

CHAPTER 45
(H.B. No. 114)

AN ACT

RELATING TO THE APPROPRIATION TO THE OFFICE OF THE STATE TREASURER FOR FISCAL YEAR 2021; APPROPRIATING ADDITIONAL MONEYS TO THE OFFICE OF THE STATE TREASURER FOR FISCAL YEAR 2021; 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 256, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Office of the State Treasurer \$196,000 from the General Fund to be expended for operating expenditures for the period July 1, 2020, through June 30, 2021, for payment card industry compliance.

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

Approved March 12, 2021

CHAPTER 46
(H.B. No. 115)

AN ACT

RELATING TO HOSPITALS; AMENDING SECTION 39-1318, IDAHO CODE, TO REVISE PROVISIONS REGARDING HOSPITAL BOARDS; AMENDING SECTION 39-1326, IDAHO CODE, TO PROVIDE THAT A HOSPITAL TRUSTEE MAY NOT BE AN EMPLOYEE OF OR HAVE AN OWNERSHIP INTEREST IN CERTAIN OTHER FACILITIES; AMENDING SECTION 39-1329, IDAHO CODE, TO PROVIDE THAT A VACANCY ON A HOSPITAL BOARD WILL BE FILLED WITHIN NINETY DAYS; AND AMENDING SECTION 39-1330, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 39-1318, Idaho Code, be, and the same is hereby amended to read as follows:

39-1318. HOSPITAL BOARDS -- DUTY TO ACQUIRE, CONSTRUCT, IMPROVE, AND MAINTAIN, PUBLIC HOSPITALS AND MEDICAL CLINICS PROVIDE FACILITIES AND SERVICES. The betterment and protection of the public health and care of the sick and afflicted are hereby declared to be the established and permanent policy of the state of Idaho, ~~the~~. The duty is hereby imposed upon the hospital boards provided for by this act of acquiring, constructing, improving, providing, and maintaining public hospitals or medical clinics within their districts facilities and services for the necessary care and treatment of persons requiring medical services.

SECTION 2. That Section 39-1326, Idaho Code, be, and the same is hereby amended to read as follows:

39-1326. BOARD OF TRUSTEES OF DISTRICT -- QUALIFICATIONS OF MEMBERS. The board of trustees of such hospital district shall consist of seven (7) residents of the district who shall be elected or appointed as herein provided. Immediately following the establishment of a hospital district, the commissioners in the county in which the same is established shall appoint the seven (7) members of the first board, three (3) members to act until the first biennial election, two (2) until the second biennial election, and two (2) until the third biennial election, all of whom shall serve until the election and qualification of their successors. Upon a unanimous vote, the board of trustees may also appoint not more than two (2) additional members to serve as trustees for the purpose of obtaining necessary and specialized skills as determined by the board of trustees to assist board deliberations and decision-making. Members who are appointed by the board shall serve for a term not to exceed six (6) years. Such appointed board members shall serve at the pleasure of the board and may be removed with or without cause by a majority vote of the elected members of the board. Appointed board members shall have the same duties, oaths and obligations as elected board members; provided however, that an appointed board member shall not be entitled to vote on any decision to levy a tax pursuant to this chapter.

No person shall be qualified to serve as a trustee of a district organized under the provisions of this chapter unless he or she ~~shall be~~ is a resident of the hospital district and a qualified elector of the state of Idaho. A trustee may not be an employee of, or have an ownership interest or investment in, another ambulatory surgery center, hospital, or health system.

SECTION 3. That Section 39-1329, Idaho Code, be, and the same is hereby amended to read as follows:

39-1329. MEETINGS -- QUORUM -- VACANCIES. The board shall meet regularly once each month at a time and place to be designated by the board. Special meetings may be held as often as the needs of the district require on notice to each member of the board. A majority of the members of the board shall constitute a quorum at any meeting. Any vacancy of an elected member on the board shall be filled by the remaining members or member of the board, the appointee to act until the next biennial election, when the vacancy shall be filled by election. If the board shall fail, neglect or refuse to fill any vacancy within ~~thirty (30)~~ ninety (90) days after the same occurs, the board of county commissioners of the county in which said district is situated shall fill such vacancy. In the case of a vacancy on the board of an appointed member, a majority of the board shall determine whether to fill the vacant position.

SECTION 4. That Section 39-1330, Idaho Code, be, and the same is hereby amended to read as follows:

39-1330. BIENNIAL ELECTION OF BOARD MEMBERS -- TERMS OF OFFICE. On the third Tuesday of May in the next odd-numbered calendar year after the organization of any district, and on the third Tuesday of May every second year thereafter, an election shall be held which shall be known as the biennial election of the district.

At the first biennial election in any district hereafter organized and each sixth year thereafter there shall be elected by the qualified electors of the district three (3) members of the board to serve for a term of six (6) years; at the second biennial election and each sixth year thereafter there shall be elected two (2) members of the board to serve for a term of six (6) years; at the third biennial election and each sixth year thereafter there shall be elected two (2) members of the board to serve for terms of six (6) years.

The county clerk shall provide for holding such elections and shall appoint judges to conduct ~~it~~ them; the county clerk shall give notice of election by publication and shall arrange such other details in connection therewith as the board may direct. The returns of the election shall be certified to and shall be canvassed and declared by the board of county commissioners. The candidate or candidates, according to the number of ~~directors~~ trustees to be elected, receiving the most votes shall be elected. Any new member of the board shall qualify in the same manner as members of the first board qualify.

In any election for ~~director trustee~~, 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 ~~director's trustee's~~ position, it shall not be necessary for the candidate to stand for election, and the board of ~~directors~~ trustees of the district shall declare such candidate elected as a ~~director trustee~~, and the secretary of the board of the district shall immediately make and deliver to such person a certificate of election.

For the purpose of achieving an orderly transition to a term of six (6) years and to hold trustee elections in odd-numbered years, the following schedule shall be followed:

- (a) For trustees elected in 2005, their terms shall expire in 2011 and the terms for each of those elected in 2011 shall be six (6) years and thereafter those terms shall be for six (6) years;
- (b) For trustees elected in 2006, their terms shall expire in 2013 and the terms for each of those elected in 2013 shall be six (6) years and thereafter those terms shall be for six (6) years;
- (c) For trustees elected in 2007, their terms shall expire in 2013 and the terms for each of those elected in 2013 shall be six (6) years and thereafter those terms shall be for six (6) years;
- (d) For trustees elected in 2008, their terms shall expire in 2015 and the terms for each of those elected in 2015 shall be six (6) years and thereafter those terms shall be for six (6) years;
- (e) For trustees elected in 2009, their terms shall expire in 2015 and the terms for each of those elected in 2015 shall be six (6) years and thereafter those terms shall be for six (6) years;
- (f) For trustees elected in 2010, their terms shall expire in 2017 and the terms for each of those elected in 2017 shall be six (6) years and thereafter those terms shall be for six (6) years.

Approved March 12, 2021

CHAPTER 47
(H.B. No. 117)

AN ACT

RELATING TO THE APPROPRIATION TO THE OFFICE OF ENERGY AND MINERAL RESOURCES FOR FISCAL YEAR 2021; APPROPRIATING ADDITIONAL MONEYS TO THE OFFICE OF ENERGY AND MINERAL RESOURCES FOR FISCAL YEAR 2021; 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 90, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Office of Energy and Mineral Resources the following amounts to be expended for personnel costs from the listed funds for the period July 1, 2020, through June 30, 2021:

FROM:

Indirect Cost Recovery Fund	\$60,600
Federal Grant Fund	<u>97,000</u>
TOTAL	\$157,600

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 March 12, 2021

CHAPTER 48
(H.B. No. 123)

AN ACT

RELATING TO THE APPROPRIATION TO THE COMMISSION ON AGING FOR FISCAL YEAR 2021; APPROPRIATING ADDITIONAL MONEYS TO THE COMMISSION ON AGING FOR FISCAL YEAR 2021; 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 2020, and any other appropriation provided by law, there is hereby appropriated to the Commission on Aging \$862,400 from the Federal COVID-19 Relief Fund to be expended for trustee and benefit payments for the period July 1, 2020, through June 30, 2021, for the purpose of enhanced congregate and home-delivered meals.

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

Approved March 12, 2021

CHAPTER 49
(H.B. No. 134)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 2021; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 2021; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 226, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Department of Agriculture for the Animal Industries Program \$427,500 from the General Fund to be expended for capital outlay for the period July 1, 2020, through June 30, 2021, for the purpose of purchasing laboratory equipment.

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

Approved March 12, 2021

CHAPTER 50
(H.B. No. 200)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR FISCAL YEAR 2021; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR FISCAL YEAR 2021; 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 229, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Department of Health and Welfare for the Benefit Payments Program \$24,000,000 from the Cooperative Welfare (Federal) Fund to be expended for trustee and benefit payments for the period July 1, 2020, through June 30, 2021, for the purpose of child care support.

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

Approved March 12, 2021

CHAPTER 51
(H.B. No. 206)

AN ACT

RELATING TO THE APPROPRIATION TO THE STATE TAX COMMISSION FOR FISCAL YEAR 2021; REDUCING THE APPROPRIATION TO THE STATE TAX COMMISSION FOR FISCAL YEAR 2021; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made to the State Tax Commission in Section 1, Chapter 339, Laws of 2020, is hereby reduced by the following amounts from the designated programs for operating expenditures from the General Fund for the period July 1, 2020, through June 30, 2021:

FROM:

General Services	\$161,600
Audit Division	125,500
Collection Division	78,400
Revenue Operations	246,300
Property Tax	<u>35,400</u>
TOTAL	\$647,200

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

Approved March 12, 2021

CHAPTER 52
(H.B. No. 207)

AN ACT

RELATING TO APPROPRIATIONS; REDUCING GENERAL FUND APPROPRIATIONS BY FIVE PERCENT FOR FISCAL YEAR 2021; APPROPRIATING AND TRANSFERRING MONEYS FROM THE PUBLIC HEALTH TRUST FUND TO THE GENERAL FUND; 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 appropriations made in the Laws of 2020, as enacted by the Second Regular Session of the Sixty-fifth Idaho Legislature, are hereby reduced by the following amounts according to the designated programs and expense classes from the listed funds for the period July 1, 2020, through June 30, 2021:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
(1) PUBLIC SCHOOL SUPPORT:					
I. EDUCATIONAL SERVICES FOR THE DEAF & BLIND:					
A. CAMPUS OPERATIONS:					
FROM:					
General					
Fund	\$353,400	\$6,300			\$359,700
B. OUTREACH PROGRAMS:					
FROM:					
General					
Fund	\$104,000	\$101,500			\$205,500
DIVISION					
TOTAL	\$457,400	\$107,800			\$565,200
(2) STATE BOARD OF EDUCATION:					
I. AGRICULTURAL RESEARCH & EXTENSION SERVICE:					
FROM:					
General					
Fund	\$1,451,900		\$153,500		\$1,605,400
II. COLLEGE AND UNIVERSITIES:					
A. BOISE STATE UNIVERSITY:					
FROM:					
General					
Fund	\$3,427,200	\$1,951,800			\$5,379,000
B. IDAHO STATE UNIVERSITY:					
FROM:					
General					
Fund	\$4,067,500				\$4,067,500
C. UNIVERSITY OF IDAHO:					
FROM:					
General					
Fund	\$4,679,800				\$4,679,800
D. LEWIS-CLARK STATE COLLEGE:					
FROM:					
General					
Fund	\$810,500	\$55,000			\$865,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
E. SYSTEMWIDE PROGRAMS:					
FROM:					
General					
Fund		\$162,100		\$200,000	\$362,100
DIVISION					
TOTAL	\$12,985,000	\$2,168,900		\$200,000	\$15,353,900
III. COMMUNITY COLLEGES:					
A. COLLEGE OF SOUTHERN IDAHO:					
FROM:					
General					
Fund		\$218,800	\$507,400		\$726,200
B. COLLEGE OF WESTERN IDAHO:					
FROM:					
General					
Fund		\$798,300			\$798,300
C. NORTH IDAHO COLLEGE:					
FROM:					
General					
Fund	\$184,000	\$437,300			\$621,300
D. COLLEGE OF EASTERN IDAHO:					
FROM:					
General					
Fund	\$240,900	\$20,000			\$260,900
E. CC SYSTEMWIDE:					
FROM:					
General					
Fund		\$2,000			\$2,000
DIVISION					
TOTAL	\$424,900	\$1,476,400	\$507,400		\$2,408,700
IV. OFFICE OF THE STATE BOARD OF EDUCATION:					
A. OSBE ADMINISTRATION:					
FROM:					
General					
Fund	\$34,600	\$223,000			\$257,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
B. IT AND DATA MANAGEMENT:					
FROM:					
General					
Fund		\$133,500			\$133,500
C. CHARTER SCHOOL COMMISSION:					
FROM:					
General					
Fund		\$8,600			\$8,600
DIVISION					
TOTAL	\$34,600	\$365,100			\$399,700
V. HEALTH EDUCATION PROGRAMS:					
A. WIMU VETERINARY EDUCATION:					
FROM:					
General					
Fund	\$64,300	\$41,000			\$105,300
B. WWAMI MEDICAL EDUCATION:					
FROM:					
General					
Fund	\$104,800				\$104,800
C. IDAHO DENTAL EDUCATION PROGRAM:					
FROM:					
General					
Fund	\$86,200				\$86,200
D. UNIVERSITY OF UTAH MEDICAL EDUCATION:					
FROM:					
General					
Fund			\$110,300		\$110,300
E. FAMILY MEDICINE RESIDENCIES:					
FROM:					
General					
Fund	\$105,800		\$187,500		\$293,300
F. BOISE INTERNAL MEDICINE:					
FROM:					
General					
Fund			\$44,800		\$44,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
G. PSYCHIATRY EDUCATION:					
FROM:					
General					
Fund				\$29,900	\$29,900
H. EASTERN IDAHO MED RESIDENCIES:					
FROM:					
General					
Fund				\$90,300	\$90,300
DIVISION TOTAL	\$361,100	\$41,000		\$462,800	\$864,900
VI. DIVISION OF CAREER TECHNICAL EDUCATION:					
A. STATE LEADERSHIP & TECHNICAL ASSISTANCE:					
FROM:					
General					
Fund		\$40,000			\$40,000
B. GENERAL PROGRAMS:					
FROM:					
General					
Fund		\$173,200		\$721,500	\$894,700
C. POSTSECONDARY PROGRAMS:					
FROM:					
General					
Fund				\$2,328,500	\$2,328,500
D. DEDICATED PROGRAMS:					
FROM:					
General					
Fund				\$82,200	\$82,200
E. RELATED SERVICES:					
FROM:					
General					
Fund		\$4,900		\$53,500	\$58,400
DIVISION TOTAL		\$218,100		\$3,185,700	\$3,403,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VII. IDAHO PUBLIC TELEVISION:					
FROM:					
General					
Fund		\$133,900			\$133,900
VIII. SPECIAL PROGRAMS:					
A. FOREST UTILIZATION RESEARCH:					
FROM:					
General					
Fund	\$71,100				\$71,100
B. GEOLOGICAL SURVEY:					
FROM:					
General					
Fund	\$48,200	\$7,100			\$55,300
C. SCHOLARSHIPS AND GRANTS:					
FROM:					
General					
Fund				\$1,111,600	\$1,111,600
D. MUSEUM OF NATURAL HISTORY:					
FROM:					
General					
Fund	\$31,200				\$31,200
E. SMALL BUSINESS DEVELOPMENT CENTERS:					
FROM:					
General					
Fund	\$34,100				\$34,100
F. TECHHELP:					
FROM:					
General					
Fund	\$10,600	\$7,500			\$18,100
DIVISION TOTAL	\$195,200	\$14,600		\$1,111,600	\$1,321,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
IX. DEPARTMENT OF EDUCATION:					
A. ADMINISTRATION:					
FROM:					
General					
Fund	\$108,400	\$109,500		\$171,500	\$389,400
B. STUDENT SERVICES:					
FROM:					
General					
Fund	\$129,300	\$113,400		\$1,200	\$243,900
DIVISION TOTAL	\$237,700	\$222,900		\$172,700	\$633,300
X. VOCATIONAL REHABILITATION:					
A. EXTENDED EMPLOYMENT SERVICES:					
FROM:					
General					
Fund		\$15,000		\$164,600	\$179,600
B. VOCATIONAL REHABILITATION:					
FROM:					
General					
Fund	\$15,000	\$17,500		\$175,700	\$208,200
C. COUNCIL FOR THE DEAF AND HARD OF HEARING:					
FROM:					
General					
Fund	\$6,400	\$12,100			\$18,500
DIVISION TOTAL	\$21,400	\$44,600		\$340,300	\$406,300
DEPARTMENT TOTAL	\$15,711,800	\$4,685,500	\$660,900	\$5,473,100	\$26,531,300
(3) DEPARTMENT OF HEALTH AND WELFARE:					
I. CHILD WELFARE:					
A. CHILD WELFARE:					
FROM:					
Cooperative Welfare (General)					
Fund	\$177,000				\$177,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
B. FOSTER & ASSISTANCE PAYMENTS:					
FROM:					
Cooperative Welfare (General)					
Fund				\$1,412,000	\$1,412,000
DIVISION					
TOTAL	\$177,000			\$1,412,000	\$1,589,000
 II. SERVICES FOR THE DEVELOPMENTALLY DISABLED:					
A. COMMUNITY DEVELOPMENTAL DISABILITY SERVICES:					
FROM:					
Cooperative Welfare (General)					
Fund	\$134,000				\$134,000
 B. SOUTHWEST IDAHO TREATMENT CENTER:					
FROM:					
Cooperative Welfare (General)					
Fund	\$34,000				\$34,000
DIVISION					
TOTAL	\$168,000				\$168,000
 III. INDEPENDENT COUNCILS:					
A. DEVELOPMENTAL DISABILITIES COUNCIL:					
FROM:					
Cooperative Welfare (General)					
Fund	\$3,100	\$6,300			\$9,400
 B. DOMESTIC VIOLENCE COUNCIL:					
FROM:					
Cooperative Welfare (General)					
Fund	\$200	\$2,100			\$2,300
DIVISION					
TOTAL	\$3,300	\$8,400			\$11,700
 IV. INDIRECT SUPPORT SERVICES:					
FROM:					
Cooperative Welfare (General)					
Fund	\$210,700	\$608,100			\$818,800
 V. DIVISION OF MEDICAID:					
A. MEDICAID ADMINISTRATION AND MEDICAL MGMT:					
FROM:					
Cooperative Welfare (General)					
Fund				\$123,900	\$123,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
B. COORDINATED MEDICAID PLAN:					
FROM:					
Cooperative Welfare (General)					
Fund				\$9,523,500	\$9,523,500
C. ENHANCED MEDICAID PLAN:					
FROM:					
Cooperative Welfare (General)					
Fund				\$15,870,200	\$15,870,200
D. BASIC MEDICAID PLAN:					
FROM:					
Cooperative Welfare (General)					
Fund				\$10,681,000	\$10,681,000
DIVISION					
TOTAL				\$36,198,600	\$36,198,600
VI. MENTAL HEALTH SERVICES:					
A. CHILDREN'S MENTAL HEALTH:					
FROM:					
Cooperative Welfare (General)					
Fund	\$1,000,000			\$1,000,000	\$2,000,000
B. ADULT MENTAL HEALTH:					
FROM:					
Cooperative Welfare (General)					
Fund	\$257,300				\$257,300
DIVISION					
TOTAL				\$1,000,000	\$2,257,300
VII. PSYCHIATRIC HOSPITALIZATION:					
A. STATE HOSPITAL NORTH:					
FROM:					
Cooperative Welfare (General)					
Fund	\$149,700				\$149,700
B. STATE HOSPITAL SOUTH:					
FROM:					
Cooperative Welfare (General)					
Fund	\$3,049,100				\$3,049,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
C. STATE HOSPITAL WEST:					
FROM:					
Cooperative Welfare (General)					
Fund	\$142,900				\$142,900
DIVISION					
TOTAL	\$3,341,700				\$3,341,700
VIII. PUBLIC HEALTH SERVICES:					
A. PHYSICAL HEALTH SERVICES:					
FROM:					
Cooperative Welfare (General)					
Fund	\$31,100	\$10,000			\$41,100
B. EMERGENCY MEDICAL SERVICES:					
FROM:					
Cooperative Welfare (General)					
Fund	\$2,100	\$85,000			\$87,100
C. LABORATORY SERVICES:					
FROM:					
Cooperative Welfare (General)					
Fund	\$18,400				\$18,400
D. SUICIDE PREVENTION AND AWARENESS:					
FROM:					
Cooperative Welfare (General)					
Fund	\$4,800				\$4,800
E. HEALTH CARE POLICY INITIATIVES:					
FROM:					
Cooperative Welfare (General)					
Fund	\$1,900				\$1,900
DIVISION					
TOTAL	\$58,300	\$95,000			\$153,300
IX. SERVICE INTEGRATION:					
FROM:					
Cooperative Welfare (General)					
Fund	\$4,100				\$4,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
X. DIVISION OF WELFARE:					
A. SELF-RELIANCE OPERATIONS:					
FROM:					
Cooperative Welfare (General)					
Fund	\$300,800				\$300,800
B. BENEFIT PAYMENTS:					
FROM:					
Cooperative Welfare (General)					
Fund				\$220,000	\$220,000
DIVISION TOTAL	\$300,800			\$220,000	\$520,800
XI. LICENSING AND CERTIFICATION:					
FROM:					
Cooperative Welfare (General)					
Fund	\$29,600				\$29,600
DEPARTMENT TOTAL	\$5,550,800	\$711,500		\$38,830,600	\$45,092,900
(4) PUBLIC HEALTH DISTRICTS:					
I. PUBLIC HEALTH DISTRICTS:					
FROM:					
Public Health Trust (General)					
Fund	\$446,200	\$44,900			\$491,100
(5) STATE INDEPENDENT LIVING COUNCIL:					
I. STATE INDEPENDENT LIVING COUNCIL:					
FROM:					
General					
Fund		\$11,300			\$11,300
(6) DEPARTMENT OF CORRECTION:					
I. MANAGEMENT SERVICES:					
FROM:					
General					
Fund	\$325,000	\$97,000			\$422,000
II. STATE PRISONS:					
A. PRISONS ADMINISTRATION:					
FROM:					
General					
Fund	\$25,000	\$37,000			\$62,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
B. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General					
Fund	\$125,000	\$51,000			\$176,000
C. IDAHO STATE CORRECTIONAL CENTER - BOISE:					
FROM:					
General					
Fund		\$44,000			\$44,000
D. IDAHO CORRECTIONAL INSTITUTION - OROFINO:					
FROM:					
General					
Fund	\$325,000	\$130,100			\$455,100
E. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:					
FROM:					
General					
Fund	\$100,000	\$36,000			\$136,000
F. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:					
FROM:					
General					
Fund		\$18,000			\$18,000
G. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General					
Fund		\$134,000			\$134,000
H. ST. ANTHONY WORK CAMP:					
FROM:					
General					
Fund		\$118,700			\$118,700
I. POCATELLO WOMEN'S CORRECTIONAL CENTER:					
FROM:					
General					
Fund		\$58,000			\$58,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
J. SOUTH BOISE WOMEN'S CORRECTIONAL CENTER:					
FROM:					
General					
Fund		\$21,000			\$21,000
DIVISION					
TOTAL	\$575,000	\$647,800			\$1,222,800
III. COUNTY & OUT-OF-STATE PLACEMENT:					
FROM:					
General					
Fund		\$10,899,500			\$10,899,500
IV. CORRECTIONAL ALTERNATIVE PLACEMENT:					
FROM:					
General					
Fund		\$1,100,500			\$1,100,500
V. COMMUNITY CORRECTIONS:					
A. COMMUNITY SUPERVISION:					
FROM:					
General					
Fund	\$200,000	\$45,000			\$245,000
VI. COMMISSION OF PARDONS & PAROLE:					
FROM:					
General					
Fund	\$128,800	\$44,900			\$173,700
DEPARTMENT					
TOTAL	\$1,228,800	\$12,834,700			\$14,063,500
(7) JUDICIAL BRANCH:					
I. COURT OPERATIONS:					
A. SUPREME COURT:					
FROM:					
General					
Fund		\$341,100			\$341,100
B. COURT OF APPEALS:					
FROM:					
General					
Fund		\$19,400			\$19,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
C. DISTRICT COURTS:					
FROM:					
General					
Fund		\$68,200			\$68,200
D. MAGISTRATE DIVISION:					
FROM:					
General					
Fund		\$121,300			\$121,300
DIVISION					
TOTAL		\$550,000			\$550,000
(8) DEPARTMENT OF JUVENILE CORRECTIONS:					
I. DEPARTMENT OF JUVENILE CORRECTIONS:					
A. ADMINISTRATION:					
FROM:					
General					
Fund	\$95,900				\$95,900
B. COMMUNITY, OPERATIONS, AND PROGRAM SERVICES:					
FROM:					
General					
Fund	\$38,500				\$38,500
C. INSTITUTIONS:					
FROM:					
General					
Fund	\$577,200		\$1,400,000		\$1,977,200
D. COMMUNITY-BASED SUBSTANCE ABUSE TREATMENT SERVICES:					
FROM:					
General					
Fund	\$3,200				\$3,200
DIVISION					
TOTAL	\$714,800		\$1,400,000		\$2,114,800
(9) DEPARTMENT OF ENVIRONMENTAL QUALITY:					
I. DEPARTMENT OF ENVIRONMENTAL QUALITY:					
A. ADMINISTRATION AND SUPPORT SERVICES:					
FROM:					
Department of Environmental Quality (General)					
Fund	\$19,800	\$53,500			\$73,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
B. AIR QUALITY:					
FROM:					
Department of Environmental Quality (General)					
Fund	\$110,800	\$12,500			\$123,300
C. WATER QUALITY:					
FROM:					
Department of Environmental Quality (General)					
Fund	\$513,500	\$350,700		\$11,700	\$875,900
D. COEUR D'ALENE BASIN COMMISSION:					
FROM:					
Department of Environmental Quality (General)					
Fund		\$300			\$300
E. WASTE MANAGEMENT AND REMEDIATION:					
FROM:					
Department of Environmental Quality (General)					
Fund	\$25,200	\$12,500			\$37,700
F. IDAHO NATIONAL LABORATORY OVERSIGHT:					
FROM:					
Department of Environmental Quality (General)					
Fund		\$300			\$300
DIVISION					
TOTAL	\$669,300	\$429,800		\$11,700	\$1,110,800
(10) BOARD OF LAND COMMISSIONERS:					
I. DEPARTMENT OF LANDS:					
A. SUPPORT SERVICES:					
FROM:					
General					
Fund	\$7,300	\$40,000			\$47,300
B. FOREST RESOURCES MANAGEMENT:					
FROM:					
General					
Fund	\$41,000				\$41,000
C. LANDS AND WATERWAYS:					
FROM:					
General					
Fund	\$7,000	\$1,600			\$8,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
D. FOREST AND RANGE FIRE PROTECTION:					
FROM:					
General					
Fund	\$36,000			\$46,100	\$82,100
E. OIL AND GAS CONSERVATION:					
FROM:					
General					
Fund	\$93,000	\$50,000			\$143,000
DIVISION TOTAL	\$184,300	\$91,600		\$46,100	\$322,000
(11) DEPARTMENT OF PARKS AND RECREATION:					
I. DEPARTMENT OF PARKS AND RECREATION:					
A. MANAGEMENT SERVICES:					
FROM:					
General					
Fund		\$48,600			\$48,600
B. PARK OPERATIONS:					
FROM:					
General					
Fund	\$34,000	\$88,000			\$122,000
DIVISION TOTAL	\$34,000	\$136,600			\$170,600
(12) DEPARTMENT OF WATER RESOURCES:					
I. DEPARTMENT OF WATER RESOURCES:					
A. MANAGEMENT AND SUPPORT SERVICES:					
FROM:					
General					
Fund		\$7,000			\$7,000
B. PLANNING AND TECHNICAL SERVICES:					
FROM:					
General					
Fund				\$750,000	\$750,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
C. WATER MANAGEMENT :					
FROM:					
General					
Fund	\$190,900				\$190,900
DIVISION					
TOTAL	\$190,900	\$7,000		\$750,000	\$947,900
 (13) DEPARTMENT OF AGRICULTURE :					
I. DEPARTMENT OF AGRICULTURE :					
A. ADMINISTRATION :					
FROM:					
General					
Fund		\$40,000			\$40,000
 B. ANIMAL INDUSTRIES :					
FROM:					
General					
Fund	\$50,000				\$50,000
 C. AGRICULTURAL RESOURCES :					
FROM:					
General					
Fund		\$127,200			\$127,200
 D. PLANT INDUSTRIES :					
FROM:					
General					
Fund		\$42,300		\$242,000	\$284,300
 E. MARKET DEVELOPMENT :					
FROM:					
General					
Fund	\$30,000	\$50,000			\$80,000
 F. ANIMAL DAMAGE CONTROL :					
FROM:					
General					
Fund		\$4,000		\$4,000	\$8,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
G. SHEEP AND GOAT HEALTH BOARD:					
FROM:					
General					
Fund	\$3,600				\$3,600
DIVISION TOTAL	\$83,600	\$263,500		\$246,000	\$593,100
II. SOIL AND WATER CONSERVATION COMMISSION:					
FROM:					
General					
Fund	\$62,200	\$11,200		\$61,400	\$134,800
DEPARTMENT TOTAL	\$145,800	\$274,700		\$307,400	\$727,900
(14) DEPARTMENT OF COMMERCE:					
I. DEPARTMENT OF COMMERCE:					
A. COMMERCE:					
FROM:					
General					
Fund	\$248,700	\$48,900			\$297,600
(15) INDUSTRIAL COMMISSION:					
I. INDUSTRIAL COMMISSION:					
A. CRIME VICTIMS COMPENSATION:					
FROM:					
General					
Fund				\$14,700	\$14,700
(16) DEPARTMENT OF LABOR:					
I. DEPARTMENT OF LABOR:					
A. WAGE AND HOUR:					
FROM:					
General					
Fund	\$26,500				\$26,500
(17) SELF-GOVERNING AGENCIES:					
I. DIVISION OF BUILDING SAFETY:					
A. BUILDING SAFETY:					
FROM:					
General					
Fund	\$12,500				\$12,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. COMMISSION ON HISPANIC AFFAIRS:					
FROM:					
General					
Fund		\$12,400			\$12,400
III. IDAHO STATE HISTORICAL SOCIETY:					
A. HISTORICAL SOCIETY:					
FROM:					
General					
Fund		\$193,200			\$193,200
IV. IDAHO COMMISSION FOR LIBRARIES:					
FROM:					
General					
Fund	\$99,900	\$17,200		\$90,600	\$207,700
V. PUBLIC DEFENSE COMMISSION:					
FROM:					
General					
Fund				\$563,700	\$563,700
VI. STATE APPELLATE PUBLIC DEFENDER:					
A. OFFICE OF THE STATE APPELLATE PUBLIC DEFENDER:					
FROM:					
General					
Fund	\$48,200	\$70,000			\$118,200
B. CAPITAL AND CONFLICT REPRESENTATION:					
FROM:					
General					
Fund		\$40,000			\$40,000
DIVISION					
TOTAL	\$48,200	\$110,000			\$158,200
VII. DIVISION OF VETERANS SERVICES:					
FROM:					
General					
Fund	\$27,800			\$32,900	\$60,700
DEPARTMENT					
TOTAL	\$188,400	\$332,800		\$687,200	\$1,208,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
(18) DEPARTMENT OF ADMINISTRATION:					
I. DEPARTMENT OF ADMINISTRATION:					
A. MANAGEMENT SERVICES:					
FROM:					
General					
Fund	\$8,900	\$3,400			\$12,300
B. PUBLIC WORKS:					
FROM:					
General					
Fund		\$77,600			\$77,600
C. PURCHASING:					
FROM:					
General					
Fund	\$31,100				\$31,100
DIVISION TOTAL	\$40,000	\$81,000			\$121,000
(19) STATE CONTROLLER:					
I. STATE CONTROLLER:					
A. ADMINISTRATION:					
FROM:					
General					
Fund		\$51,300			\$51,300
B. STATEWIDE ACCOUNTING:					
FROM:					
General					
Fund		\$261,000			\$261,000
C. STATEWIDE PAYROLL:					
FROM:					
General					
Fund		\$242,400			\$242,400
DIVISION TOTAL		\$554,700			\$554,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
(20) OFFICE OF THE GOVERNOR:					
I. COMMISSION ON AGING:					
FROM:					
General					
Fund	\$27,000	\$4,000		\$194,900	\$225,900
II. COMMISSION ON THE ARTS:					
FROM:					
General					
Fund	\$38,400	\$5,300			\$43,700
III. COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED:					
FROM:					
General					
Fund	\$35,000	\$13,900		\$26,300	\$75,200
IV. OFFICE OF DRUG POLICY:					
FROM:					
General					
Fund	\$16,600				\$16,600
V. DIVISION OF FINANCIAL MANAGEMENT:					
FROM:					
General					
Fund	\$99,000				\$99,000
VI. EXECUTIVE OFFICE OF THE GOVERNOR:					
A. ADMINISTRATION - GOVERNOR'S OFFICE:					
FROM:					
General					
Fund	\$112,300				\$112,300
B. ACTING GOVERNOR PAY:					
FROM:					
General					
Fund	\$900				\$900
C. EXPENSE ALLOWANCE:					
FROM:					
General					
Fund		\$200			\$200
DIVISION TOTAL	\$113,200	\$200			\$113,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VII. INFORMATION TECHNOLOGY SERVICES, OFFICE OF:					
FROM:					
General					
Fund	\$100,000	\$59,100			\$159,100
VIII. MILITARY DIVISION:					
A. MILITARY MANAGEMENT:					
FROM:					
General					
Fund	\$102,900	\$81,800			\$184,700
B. FEDERAL/STATE AGREEMENTS:					
FROM:					
General					
Fund	\$45,000	\$25,000			\$70,000
C. OFFICE OF EMERGENCY MANAGEMENT:					
FROM:					
General					
Fund	\$102,700				\$102,700
DIVISION TOTAL	\$250,600	\$106,800			\$357,400
IX. OFFICE OF SPECIES CONSERVATION:					
FROM:					
General					
Fund	\$80,400				\$80,400
X. STEM ACTION CENTER:					
FROM:					
General					
Fund		\$152,400			\$152,400
XI. WOLF DEPREDATION CONTROL BOARD:					
FROM:					
General					
Fund		\$19,600			\$19,600
DEPARTMENT TOTAL	\$760,200	\$361,300		\$221,200	\$1,342,700

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
(21) LEGISLATIVE BRANCH:					
I. LEGISLATIVE SERVICES OFFICE:					
FROM:					
General					
Fund	\$281,500				\$281,500
(22) LIEUTENANT GOVERNOR:					
I. LIEUTENANT GOVERNOR:					
FROM:					
General					
Fund	\$9,100				\$9,100
(23) DEPARTMENT OF REVENUE AND TAXATION:					
I. BOARD OF TAX APPEALS:					
FROM:					
General					
Fund	\$20,800	\$10,900			\$31,700
(24) SECRETARY OF STATE:					
I. SECRETARY OF STATE:					
A. SECRETARY OF STATE:					
FROM:					
General					
Fund		\$177,900			\$177,900
B. COMMISSION ON UNIFORM STATE LAWS:					
FROM:					
General					
Fund		\$2,700			\$2,700
DIVISION					
TOTAL		\$180,600			\$180,600
(25) STATE TREASURER:					
I. STATE TREASURER:					
FROM:					
General					
Fund	\$32,100	\$40,100			\$72,200
GRAND TOTAL	\$26,941,400	\$21,495,700	\$660,900	\$47,742,000	\$96,840,000

SECTION 2. CASH TRANSFER. Of the amounts reduced in Subsection (4) of Section 1 of this act from the Public Health Trust (General) Fund, there is hereby appropriated and the Office of the State Controller shall transfer up to \$491,100 from the Public Health Trust Fund to the General Fund as soon as practicable for the period July 1, 2020, through June 30, 2021.

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 12, 2021

CHAPTER 53
(H.B. No. 205)

AN ACT

RELATING TO THE APPROPRIATION TO THE IDAHO STATE POLICE FOR FISCAL YEAR 2021; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO STATE POLICE FOR 2021; 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 231, Laws of 2020, and any other appropriation provided by law, 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 fund for the period July 1, 2020, through June 30, 2021:

	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. INVESTIGATIONS:			
FROM:			
General			
Fund	\$48,000	\$28,300	\$76,300
II. PATROL:			
FROM:			
General			
Fund	\$654,200	\$233,500	\$887,700
GRAND TOTAL	\$702,200	\$261,800	\$964,000

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

Approved March 15, 2021

CHAPTER 54
(H.B. No. 40)

AN ACT

RELATING TO PHARMACISTS; AMENDING SECTION 54-1704, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1705, IDAHO CODE, TO DEFINE TERMS, TO REVISE DEFINITIONS, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1707, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1710, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1715, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1718, IDAHO CODE, TO PROVIDE FOR CERTIFICATES; AMENDING SECTION 54-1719, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1720, IDAHO CODE, TO PROVIDE FOR CERTIFICATES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1721, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1722, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1723, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO PROVIDE FOR CERTIFICATES; AMENDING SECTION 54-1723A, IDAHO CODE, TO PROVIDE FOR CERTIFICATES; AMENDING SECTION 54-1723B, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; REPEALING SECTION 54-1724, IDAHO CODE, RELATING TO RENEWAL OF LICENSES; AMENDING SECTION 54-1726, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1727, IDAHO CODE, TO PROVIDE FOR FEDERAL LAW, TO PROVIDE CORRECT TERMINOLOGY, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1728, IDAHO CODE, TO PROVIDE FOR CERTIFICATES AND TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 54-1729, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING CHAPTER 17, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1729A, IDAHO CODE, TO PROVIDE FOR THE LICENSURE OF WHOLESALE DRUG DISTRIBUTORS; AMENDING SECTION 54-1730, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1731, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1732, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY, TO PROVIDE A CORRECT CODE REFERENCE, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1733A, IDAHO CODE, TO PROVIDE FOR A REGISTERED PHARMACY; AMENDING SECTION 54-1733B, IDAHO CODE, TO REMOVE CERTAIN LIMITATIONS; AMENDING SECTION 54-1733D, IDAHO CODE, TO REMOVE CERTAIN LIMITATIONS; AMENDING SECTION 54-1736, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 17, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1737A, IDAHO CODE, TO PROVIDE RESTRICTIONS REGARDING CERTAIN TRANSACTIONS; AMENDING SECTION 54-1739, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE; REPEALING SECTION 54-1751, IDAHO CODE, RELATING TO A SHORT TITLE; REPEALING SECTION 54-1752, IDAHO CODE, RELATING TO DEFINITIONS; REPEALING SECTION 54-1753, IDAHO CODE, RELATING TO WHOLESALE DRUG DISTRIBUTOR LICENSING; REPEALING SECTION 54-1754, IDAHO CODE, RELATING TO RESTRICTIONS ON TRANSACTIONS; REPEALING SECTION 54-1757, IDAHO CODE, RELATING TO DISCIPLINE; REPEALING SECTION 54-1758, IDAHO CODE, RELATING TO PROHIBITED ACTS; REPEALING SECTION 54-1759, IDAHO CODE, RELATING TO PENALTIES; AMENDING SECTION 54-1761, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 54-1762A, IDAHO CODE, TO REMOVE LANGUAGE REGARDING LIQUID DRUG DONATIONS AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 54-1764, IDAHO CODE, TO PROVIDE FOR CERTIFICATES; REPEALING SECTION 54-1765, IDAHO CODE, RELATING TO EXEMPTION FROM THE IDAHO WHOLESALE DRUG DISTRIBUTION ACT; AND AMENDING SECTION 54-4702, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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) Agents for active immunization when prescribed for susceptible persons six (6) years of age or older for the protection from communicable disease; and~~
 - ~~(b) Drugs, drug categories, or devices that are prescribed in accordance with the product's federal food and drug administration-approved labeling and that are limited to conditions that:
 - (ia) Do not require a new diagnosis;
 - (iib) Are minor and generally self-limiting;
 - (iiic) Have a test that is used to guide diagnosis or clinical decision-making and are waived under the federal clinical laboratory improvement amendments of 1988; or
 - (ivd) In the professional judgment of the pharmacist, threaten the health or safety of the patient should the prescription not be immediately dispensed. In such cases, only sufficient quantity may be provided until the patient is able to be seen by another provider.~~

The board shall not adopt any rules authorizing a pharmacist to prescribe a controlled drug, ~~compounded drug or biological product.~~

SECTION 2. That Section 54-1705, Idaho Code, be, and the same is hereby amended to read as follows:

54-1705. DEFINITIONS. In this chapter:

- (1) "Board of pharmacy" or "board" means the Idaho state board of pharmacy.
- (2) "Central drug outlet" means a resident or nonresident pharmacy, drug outlet or business entity employing or contracting pharmacists to perform off-site pharmacy services.
- (3) "Certificate" means a license or registration issued by the board unless specifically stated.
- (4) "Chain pharmacy warehouse" means a physical location for prescription drugs that acts as a central warehouse and performs intracompany sales or transfers of such drugs to a group of chain pharmacies that have the same common ownership and control.
- (5) "Colicensed partner or product" means an instance where two (2) or more parties have the right to engage in the manufacturing or marketing of

a prescription drug, consistent with the federal food and drug administration's implementation of the prescription drug marketing act.

(6) "Compounding" means the practice in which a pharmacist, a prescriber, or, in the case of an outsourcing facility, a person under the supervision of a pharmacist combines, mixes or alters ingredients of a drug to create a medication tailored to the needs of an individual patient.

(47) "Counseling" or "counsel" means the effective communication by the pharmacist of information, as set out in this chapter, to the patient or caregiver in order to improve therapeutic outcomes by maximizing proper use of prescription drugs and devices.

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

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

(a) Recognized in the official United States Pharmacopoeia or official National Formulary, other drug compendia or any supplement to them;

(b) Intended for use in the diagnosis of disease or other conditions, or the cure, mitigation, treatment or prevention of disease in man or other animal;

(c) Intended to affect the structure or any function of the body of man or other animal, and which does not achieve any of its principal intended purposes through chemical action within or on the body of man or other animal, and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

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

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

(912) "Drug" means:

(a) Articles recognized as drugs in the official United States Pharmacopoeia, official National Formulary, official Homeopathic Pharmacopoeia, other drug compendia or any supplement to any of them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animal;

(c) Articles, other than food, intended to affect the structure or any function of the body of man or other animal; and

(d) Articles intended for use as a component of any articles specified in paragraph (a), (b) or (c) of this subsection.

(103) "Drug outlet" means a resident or nonresident pharmacy, business entity or other facility where employees or personnel are engaged in the practice of pharmacy, in the provision of pharmaceutical care, or in the dispensing, delivering, distributing or manufacturing of drugs or devices in or into Idaho.

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

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

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

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

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

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

(1720) "Mail service pharmacy" means a nonresident pharmacy that ships, mails or delivers by any lawful means a dispensed legend drug to residents in this state pursuant to a legally issued prescription drug order and ensures the provision of corresponding related pharmaceutical care services required by law.

(1821) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a device or a drug, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a drug by an individual for his own use or the preparation, compounding, packaging or labeling of a drug:

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

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

(1922) "Manufacturer" means a person who ~~by compounding, cultivating, harvesting, mixing or~~ is licensed or approved by the federal food and drug administration to engage in the manufacture of drugs, including a colicensed partner or affiliate of that person, who compounds, cultivates, derives, harvests, mixes, or by other process produces or prepares legend drugs, and includes persons who prepare such drugs in dosage forms by mixing, compounding, encapsulating, entableting, or other process, or who packages or repackages such drugs, but does not include pharmacists or practitioners in the practice of their profession.

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

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

(225) "Off-site pharmacy services" means services provided by a central drug outlet or an off-site pharmacist or technician. Services may include, but are not limited to: processing a request from another pharmacy to fill, refill or dispense a prescription drug order; performance of processing functions; or providing cognitive or pharmaceutical ease care services. Each function may be performed by the same or different persons and at the same or different locations.

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

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

(258) "Person in charge" or "PIC" means a person whose qualifications, responsibilities, and reporting requirements are defined in rule.

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

(2730) "Pharmacist" means an individual licensed by this state to engage in the practice of pharmacy or a pharmacist registered by this state who is located in another state, territory or the District of Columbia and is engaged in the practice of pharmacy into Idaho, unless exempted.

(2831) "Pharmacist intern" means a person who is enrolled in or who has completed a course of study at an accredited school or college of pharmacy and is registered with the board as a pharmacist intern prior to commencement of an internship program.

(2932) "Pharmacy" means any drug outlet, facility, department or other place where prescription drug orders are filled or compounded and prescriptions are sold, dispensed, offered or displayed for sale, which has, as its principal purpose, the dispensing of drug and health supplies intended for the general health, welfare and safety of the public.

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

(314) "Preceptor" means a pharmacist or other health professional licensed and in good standing who supervises the internship training of a registered pharmacist intern.

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

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

(347) "Prescriber drug outlet" means a drug outlet in which prescription drugs or devices are dispensed directly to patients under the supervision of a prescriber, except where delivery is accomplished only through on-site administration or the provision of drug samples, patient assistance program drugs, or investigational drugs as permitted in chapter 94, title 39, Idaho Code.

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

(a) "Caution: Federal law prohibits dispensing without a prescription"; or

(b) "Rx Only"; or

(c) "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian";

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

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

(3740) "Prospective drug review" includes, but is not limited to, the following activities:

(a) Evaluation of the prescription drug order for known allergies, rational therapy contraindications, reasonable dose and route of administration, and reasonable directions for use-;

(b) Evaluation of the prescription drug order for duplication of therapy-;

(c) Evaluation of the prescription drug order for drug, food, or disease interactions-; and

(d) Evaluation of the prescription drug order for proper utilization, over- or under-utilization, and abuse/misuse.

(3841) "Record" means all papers, letters, memoranda, notes, prescriptions, drug orders, invoices, statements, patient medication charts or files, computerized records or other written indicia, documents or objects that are used in any way in connection with the purchase, sale or handling of any drug or device.

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

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

(3944) "Sale" means every sale and includes:

(a) Manufacturing, processing, transporting, handling, packaging or any other production, preparation or repackaging;

(b) Exposure, offer, or any other proffer;

(c) Holding, storing or any other possession;

(d) Dispensing, giving, delivering or any other supplying; and

(e) Applying, administering or any other usage.

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

(416) "Veterinary drug outlet" means a prescriber drug outlet that dispenses drugs or devices intended for animal patients.

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

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

(b) The sale, purchase, or trade of a drug, an offer to sell, purchase, or trade a drug, or the dispensing of a drug pursuant to a prescription;

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

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

(428) "Wholesaler" means a person, who in the usual course of business, lawfully distributes drugs or devices in or into Idaho to persons other than the ultimate user.

SECTION 3. That Section 54-1707, Idaho Code, be, and the same is hereby amended to read as follows:

54-1707. MEMBERSHIP. The board of pharmacy shall consist of five (5) members. One (1) member shall be a representative of the public, and four (4) members shall be licensed pharmacists who possess the qualifications specified in section 54-1708, Idaho Code. The board of pharmacy shall have diverse pharmacy practice experience, with at least one (1) member having substantial experience in retail community pharmacy and at least one (1) member having substantial experience in hospital pharmacy.

SECTION 4. 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 that 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.

(3) No member of the board shall serve more than two (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.

SECTION 5. That Section 54-1715, Idaho Code, be, and the same is hereby amended to read as follows:

54-1715. MEETINGS OF THE BOARD. (1) The board of pharmacy shall meet at least once every six (6) months to transact its business. One (1) such meeting held during each fiscal year of the state shall be designated as the annual meeting and shall be for the purpose of electing officers and for the reorganization of the board. The board shall meet at such additional times as it may determine. Such additional meetings may be called by the chairman of the board or by three (3) of the members of the board.

(2) The board shall meet at such place as it may from time to time determine. The place for each meeting shall be determined prior to giving notice of such meeting and shall not be changed after such notice is given without adequate subsequent notice.

(3) Notice of all meetings of the board shall be given in the manner and pursuant to requirements prescribed by the state's applicable statutes, and rules and regulations.

(4) A majority of the members of the board shall constitute a quorum for the conduct of a board meeting and, except where a greater number is required by the act, or by any rule or regulation of the board, all actions of the board shall be by a majority of a quorum.

(5) All meetings and hearings of the board shall be conducted in compliance with the provisions of chapter 2, title 74, Idaho Code.

SECTION 6. That Section 54-1718, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(2) The board of pharmacy shall require the following applicants to submit to a fingerprint-based criminal history check of the Idaho central criminal history database and the federal bureau of investigation criminal history database:

- (a) Original applicants for ~~licensure or registration~~ a certificate, unless exempted by board rule; and
- (b) Applicants for reinstatement of a ~~license or registration~~ certificate.

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

SECTION 7. That Section 54-1719, Idaho Code, be, and the same is hereby amended to read as follows:

54-1719. MEDICATIONS -- DRUGS -- DEVICES -- OTHER MATERIALS. The board of pharmacy shall also have the following responsibilities in regard to medications, drugs, devices and other materials used in this state in the diagnosis, mitigation and treatment or prevention of injury, illness and disease:

- (1) The regulation of the sale at retail and the dispensing of medications, drugs, devices and other materials, including the method of dispensing in institutional facilities, and including the right to seize such drugs, devices and other materials found to be detrimental to the public health and welfare by the board after appropriate hearing as required under the administrative procedure act;
- (2) The specifications of minimum professional and technical equipment, environment, supplies and procedures for the compounding, dispensing and distribution of such medications, drugs, devices and other materials within the practice of pharmacy;
- (3) The control of the purity and quality of such medications, drugs, devices and other materials within the practice of pharmacy; and
- (4) The issuance and renewal of certificates ~~of registration~~ of drug outlets for purposes of ascertaining those persons engaged in the manufacture and distribution of drugs.

SECTION 8. That Section 54-1720, Idaho Code, be, and the same is hereby amended to read as follows:

54-1720. OTHER DUTIES -- POWERS -- AUTHORITY. The board of pharmacy shall have such other duties, powers, and authority as may be necessary to the enforcement of this chapter and to the enforcement of board rules made pursuant thereto, which shall include, but are not limited to, the following:

(1) The board may join such professional organizations and associations organized exclusively to promote the improvement of the standards of the practice of pharmacy for the protection of the health and welfare of the public and whose activities assist and facilitate the work of the board.

(2) In addition to any statutory requirements, the board may require such surety bonds as it deems necessary to guarantee the performance and discharge of the duties of any officer or employee receiving and disbursing funds.

(3) The executive director of the board shall keep the seal of the board and shall affix it only in such manner as may be prescribed by the board.

(4) (a) The board shall determine by rule the fees to be collected for the issuance and renewal of ~~licenses and registrations~~ certificates.

(b) All fees or fines that shall be paid under the provisions of this chapter shall be paid over by the board to the treasurer of the state of Idaho and shall be held by the state treasurer in the pharmacy account, which shall be paid out by the state treasurer upon warrant drawn by the state controller against said account. The state controller is hereby authorized, upon presentation of the proper vouchers of claims against the state, approved by the said board and the state board of examiners, as provided by law, to draw his warrant upon said account.

(5) In addition to its annual appropriations, the board may solicit and receive, from parties other than the state, grants, moneys, donations and gifts of tangible and intangible property for any purpose consistent with this act, which may be specified as a condition of any grants, donations or gifts. Such moneys may be solicited or received provided:

(a) Such moneys are awarded for the pursuit of a specific objective which the board is authorized to accomplish by this chapter, or which the board is qualified to accomplish by reason of its jurisdiction or professional expertise;

(b) Such moneys are expended for the pursuit of the objective for which they are awarded;

(c) Activities connected with or occasioned by the expenditures of such moneys do not interfere with or impair the performance of the board's duties and responsibilities and do not conflict with the exercise of the board's powers as specified by this chapter;

(d) Such moneys are kept in a separate, special state account; and

(e) Periodic reports are made to the administrator, division of financial management, concerning the board's receipt and expenditure of such moneys.

(6) The board shall assign to each drug outlet under its jurisdiction a uniform state number.

(7) The board or its authorized representatives shall also have power to investigate and gather evidence concerning alleged violations of the provisions of this chapter or of the rules of the board.

(8) Except as otherwise provided to the contrary, the board shall exercise all of its duties, powers and authority in accordance with the administrative procedure act.

(9) (a) For the purpose of any proceedings held before the board as authorized by law, including the refusal, nonrenewal, revocation or suspension of ~~licenses, registrations or certifications~~ a certificate authorized by this chapter, or the imposition of fines or reprimands

on persons holding such licenses, ~~certifications or registrations certificates~~, the board may subpoena witnesses and compel their attendance, and may also at such time require the production of books, papers, documents or other memoranda. In any such proceeding before the board, any member of the board, or its designee, may administer oaths or affirmations to witnesses so appearing.

(b) If any person shall refuse to obey a subpoena so issued, or refuse to testify or produce any books, papers or documents called for by said subpoena, the board may make application to the district court of the county in which the proceeding is held for an order of the court requiring the person to appear before the court and to show cause why the person should not be compelled to testify, to produce such books, papers, memoranda or other documents required by the subpoena, or otherwise comply with its terms. The application shall set forth the action theretofore taken by the board to compel the attendance of the witness, and the circumstances surrounding the failure of the witness to attend or otherwise comply with the subpoena, together with a brief statement of the reasons why compliance with the subpoena is necessary to the proceeding before the board.

(c) Upon the failure of a person to appear before the court at the time and place designated by it, the court may enter an order without further proceedings requiring the person to comply with the subpoena. Any person failing or refusing to obey such order of the court shall be punished for contempt of court as in other cases provided.

(10) The board may sponsor, participate in or conduct education, research or public service programs or initiatives to carry out the purposes of this chapter.

SECTION 9. That Section 54-1721, Idaho Code, be, and the same is hereby amended to read as follows:

54-1721. UNLAWFUL PRACTICE. (1) It shall be unlawful for any person or business entity to engage in the practice of pharmacy including, but not limited to, pharmaceutical care services in or into Idaho unless licensed or registered to so practice under the provisions of this chapter, except as provided in this subsection:

(a) Practitioners who are licensed under the laws of this state and their agents or employees may deliver and administer prescription drugs to their patients in the practice of their respective professions where specifically authorized to do so by statute of this state;

(b) Nonresident pharmacists who are actively licensed in their state of residence may practice pharmacy into Idaho if employed by or affiliated with and practicing for an Idaho-registered nonresident drug outlet. Only the PIC of a registered nonresident facility must be registered to practice into Idaho;

(c) Multistate licensees permitted to engage in the multistate practice of pharmacy in or into Idaho pursuant to section 54-1723B, Idaho Code;

(d) A veterinary drug outlet, as defined in section 54-1705, Idaho Code, does not need to register with the board if the outlet does not dispense for outpatient use any controlled substances listed in chapter 27, title 37, Idaho Code, euthanasia drugs, tranquilizer drugs, neuromuscular paralyzing drugs or general anesthesia drugs;

(e) Employees of the public health districts established under section 39-408, Idaho Code, shall be permitted to engage in the labeling and delivery of prepackaged items pursuant to a valid prescription drug order and in accordance with a formulary established by the district health director; and

(f) Researchers may possess legend drugs for use in their usual and lawful research projects.

(2) It shall be unlawful for any person, not legally licensed or registered as a pharmacist, to take, use or exhibit the title of pharmacist or any other title or description of like import.

(3) Any person who shall be found to have unlawfully engaged in the practice of pharmacy shall be subject to a fine not to exceed three thousand dollars (\$3,000) for each offense. Each such violation of this chapter or the rules promulgated hereunder pertaining to unlawfully engaging in the practice of pharmacy shall also constitute a misdemeanor punishable upon conviction as provided in the criminal code of this state.

SECTION 10. That Section 54-1722, Idaho Code, be, and the same is hereby amended to read as follows:

54-1722. QUALIFICATIONS FOR LICENSURE BY EXAMINATION. (1) To obtain a license to engage in the practice of pharmacy, an applicant for licensure by examination shall:

(a) Have submitted a written application in the form prescribed by the board of pharmacy;

(b) Have attained the age of majority;

(c) Have graduated and received the first professional undergraduate degree from a school or college of pharmacy approved by the board of pharmacy;

(d) Have completed an internship or other program approved by the board of pharmacy, or demonstrated to the board's satisfaction experience in the practice of pharmacy that meets or exceeds the minimum internship requirements of the board;

(e) Have successfully passed an examination given by the board of pharmacy; and

(f) Paid the fees specified by the board of pharmacy for examination and issuance of license.

(2) Examinations. The examination shall be prepared to measure the competence of the applicant to engage in the practice of pharmacy. The board may employ and cooperate with any organization or consultant in the preparation and grading of an appropriate examination, but shall retain the sole discretion and responsibility of determining which applicants have successfully passed such an examination.

(3) Internship and other training programs. All applicants for licensure by examination shall obtain practical experience in the practice of pharmacy concurrent with or after college attendance, or both, under such terms and conditions as the board shall determine.

(4) Any applicant who is a graduate of a school or college of pharmacy located outside the United States, the degree program of which has not been approved by the board, but who is otherwise qualified to apply for a license to practice pharmacy in this state, may be considered to have satisfied the degree requirements of subsection (1) (d) of this section by verification to the board of his academic record and his graduation and by meeting any other requirements as the board may establish from time to time. The board may require that the applicant successfully pass an examination given or approved by the board to establish proficiency in English and an equivalency of education with qualified graduates of a degree program specified in subsection (1) (d) of this section as a prerequisite of taking the licensure examination as provided in subsection (1) (f) of this section.

SECTION 11. That Section 54-1723, Idaho Code, be, and the same is hereby amended to read as follows:

54-1723. QUALIFICATIONS FOR LICENSURE BY RECIPROCITY. (1) To obtain a license as a pharmacist by reciprocity, an applicant for licensure shall:

- (a) Have submitted a written application in the form prescribed by the board of pharmacy;
- (b) Have attained the age of majority;
- (c) ~~Have good moral character and temperate habits;~~
- ~~(d) Have possessed at the time of initial licensure as a pharmacist such other qualifications necessary to have been eligible for licensure at that time in this state;~~
- (ed) Have presented to the board proof of initial licensure by examination and proof that such license and any other ~~license or licenses~~ certificate granted to the applicant by any other state or states is not at the time of application suspended, revoked, canceled or otherwise restricted in a manner preventing the applicant from practicing as a pharmacist for any reason except nonrenewal or the failure to obtain required continuing education credits in any state where the applicant is licensed but not engaged in the practice of pharmacy; and
- (fe) Have paid the fees specified by the board of pharmacy for issuance of a license.

(2) Eligibility. No applicant shall be eligible for licensure by reciprocity unless the state in which the applicant was initially licensed as a pharmacist also grants reciprocal licensure to pharmacists duly licensed by examination in this state, under like circumstances and conditions.

SECTION 12. That Section 54-1723A, Idaho Code, be, and the same is hereby amended to read as follows:

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

- (a) Be licensed and in good standing in the state from which the applicant practices pharmacy;
- (b) Submit a written application in the form prescribed by the board;
- (c) Pay the fee(s) specified by the board for the issuance of the registration certificate; and
- (d) Comply with all other requirements of the board.

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

(3) A successful applicant for ~~registration a certificate~~ registration a certificate under this section shall comply with the board's laws and rules of this state unless compliance would violate the laws or rules in the state in which the registrant applicant is located.

(4) Renewal shall be required annually and submitted to the board no later than the last day of the ~~registrant's applicant's~~ applicant's birth month. The board shall specify by rule the procedures to be followed and the fees to be paid for renewal of registration the certificate.

SECTION 13. That Section 54-1723B, Idaho Code, be, and the same is hereby amended to read as follows:

54-1723B. MULTISTATE PRACTICE OF PHARMACY. Notwithstanding any provision of law to the contrary:

(1) As used in this section:

(a) "License" means a license, registration, or other credential for the practice of pharmacy issued by the pharmacy licensing agency of a state.

(b) "Multistate licensee" means a multistate pharmacist, multistate pharmacist intern, or multistate technician.

(c) "Multistate pharmacist" means a nonresident pharmacist, licensed by a party state, who is not otherwise licensed by the board.

(d) "Multistate pharmacist intern" means a nonresident pharmacist intern, registered by a party state, who is not otherwise registered licensed by the board.

(e) "Multistate practice of pharmacy" means the practice of pharmacy in or into Idaho, for a patient located in Idaho, by a multistate licensee, pursuant to the requirements of this section and the terms of a mutual recognition agreement.

(f) "Multistate technician" means a nonresident certified technician, licensed by a party state, who is not otherwise registered by the board.

(g) "Mutual recognition agreement" means a written agreement entered into between the board and a party state allowing for the multistate practice of pharmacy, subject to the requirements of this section and any other reasonable and supplemental contract terms negotiated by the board and the party state.

(h) "Party state" means any pharmacy licensing agency of a state that has entered a mutual recognition agreement with the board.

(i) "Primary state of residence" means the multistate licensee's declared primary state of residence, as evidenced by a valid state or federal identification card with a home address or another form of identification as accepted by the board.

(j) "State" means a state, a territory or possession of the United States, or the District of Columbia.

(2) The board may enter into mutual recognition agreements with one (1) or more party states provided that each party state:

(a) Has substantially similar requirements for pharmacist licensure, as required in section 54-1722, Idaho Code, or pharmacist intern and certified technician registration, as required by board rule, or both;

(b) Requires a fingerprint-based criminal history check prior to licensure that is substantially similar to the requirement in section 54-1718, Idaho Code; and

(c) Grants the same multistate practice privileges to Idaho pharmacists, registered pharmacist interns, or certified technicians as Idaho grants to the party state's pharmacists, registered pharmacist interns, or certified technicians under like circumstances and conditions.

(3) A pharmacist license, pharmacist intern registration, or certified technician license issued by a party state will be recognized by the board as permitting the multistate practice of pharmacy in or into Idaho without a license or registration issued by the board provided the following conditions are met:

(a) The party state is the primary state of residence for the multistate licensee;

(b) The multistate licensee holds an active license issued by a party state that is not currently suspended, revoked, canceled, or otherwise restricted or conditioned in any manner; and

(c) The requirements specified in paragraph (a) or (b) of this subsection must be met at all times by any multistate licensee engaged in the multistate practice of pharmacy in or into Idaho.

(i) If such a multistate licensee no longer meets the requirements in paragraph (a) of this subsection, the multistate licensee must apply for licensure in the new primary state of residence prior to relocating to the new primary state of residence. If the pharmacist, pharmacist intern, or technician's new primary state of residence is either Idaho or another party state, the pharmacist, pharmacist intern, or technician may continue to practice until a new license is issued in the new primary state of residence.

(ii) If a multistate licensee no longer meets the requirements in paragraph (b) of this subsection, the multistate licensee must immediately cease engaging in the multistate practice of pharmacy in or into Idaho, unless the multistate licensee obtains a license or registration issued by the board.

(4) A multistate licensee engaged in the multistate practice of pharmacy in or into Idaho must comply with all laws governing the practice of pharmacy in the state of Idaho.

(5) If the board finds grounds for discipline exist, as set forth in section 54-1726 or 37-2718, Idaho Code, the board may impose upon the multistate practice privileges of a multistate licensee any of the penalties set forth in section 54-1728 or 37-2718, Idaho Code. The board's imposition of any penalties shall be limited to the multistate practice privileges of a multistate licensee. Only the party state shall have the power to revoke, suspend, or otherwise discipline a license issued by the party state.

(6) The board shall promptly notify a party state of any board action taken against the multistate practice privileges of a multistate licensee licensed by the party state. The party state shall give the same priority and effect to reported conduct received from the board as it would if such conduct had occurred within the party state.

SECTION 14. That Section 54-1724, Idaho Code, be, and the same is hereby repealed.

SECTION 15. That Section 54-1726, Idaho Code, be, and the same is hereby amended to read as follows:

54-1726. GROUND FOR DISCIPLINE. (1) The board of pharmacy may ~~refuse to issue or renew, or may suspend, revoke or restrict the license or registration~~ penalize as set forth in section 54-1728, Idaho Code, a certificate of any person, pursuant to the procedures set forth in chapter 52, title 67, Idaho Code, upon one (1) or more of the following grounds:

(a) Unprofessional conduct as that term is defined by the rules of the board;

(b) Incapacity of a nature that prevents a pharmacist person from engaging in the practice of pharmacy with reasonable skill, competence and safety to the public;

(c) Being found guilty, convicted or having received a withheld judgment or suspended sentence by a court of competent jurisdiction in this state or any other state of one (1) or more of the following:

(i) Any crime ~~that is~~ deemed relevant in accordance with section 67-9411(1), Idaho Code;

(ii) Any act ~~that is~~ related to the qualifications, functions or duties of a licensee or registrant; or

(iii) Violations of the pharmacy or drug laws of this state or rules pertaining thereto, or of statutes, rules or regulations of any other state, or of the federal government;

(d) Fraud or intentional misrepresentation by a licensee or registrant in securing the issuance or renewal of a license certificate;

(e) Engaging or aiding and abetting an individual to engage in the practice of pharmacy without a license, certificate or falsely using the title of pharmacist; and

(f) Being found by the board to be in violation of any of the provisions of this chapter, chapter 27, title 37, Idaho Code, or rules adopted pursuant to either chapter.

(2) Nonresident licensees and registrants shall be held accountable to the board for violations by its agents and employees and subject to the same grounds for discipline and penalties for their actions as set forth herein.

SECTION 16. That Section 54-1727, Idaho Code, be, and the same is hereby amended to read as follows:

54-1727. CONFIDENTIALITY OF PRESCRIPTIONS AND PATIENT INFORMATION. (1) In addition to the requirements of the health insurance portability and accountability act of 1996, all prescriptions, drug orders, records or any other prescription information that specifically identifies an individual patient shall be held in the strictest confidence. No person in possession of such information shall release the information, unless requested as follows:

(a) By the board, or its representatives, acting in their official capacity;

(b) By the patient, or the patient's designee, regarding the patient's own records;

~~(c) By the practitioner, or the practitioner's designee, who issued the prescription;~~

~~(d) By other licensed health care professionals who are responsible for the direct and acute care of the patient;~~

~~(e) By agents of the department of health and welfare when acting in their official capacity with reference to issues related to the practice of pharmacy (written requests by authorized agents of the department requesting such information are required);~~

~~(f) By agents of any board whose practitioners have prescriptive authority, when the board is enforcing laws governing that practitioner;~~

~~(g) By an agency of government charged with the responsibility for providing medical care for the patient (written requests by authorized agents of the agency requesting such information are required);~~

~~(h) By the federal food and drug administration (FDA), for purposes relating to monitoring of adverse drug events in compliance with the requirements of federal law, rules or regulations adopted by the federal food and drug administration;~~

~~(i) By the patient's authorized insurance benefit provider or health plan providing health care coverage or pharmacy benefits to the patient.~~

~~(j) Nothing in this section shall be construed to prohibit consultations between health care professionals who are involved in the diagnosis, care and treatment of the patient.~~

~~(k) Nothing in this section shall prohibit insurance companies and health plans from sharing patient-specific information with law enforcement authorities or any of the entities identified in subsections (1) (a) through (i) of this section, paragraphs (a) through (e) of this subsection in cases of suspected fraud and substance abuse; or~~

~~(l) Nothing in this section shall prohibit disclosure of patient-specific information to law enforcement authorities pursuant to a search warrant, subpoena, or other court order.~~

(2) ~~Nothing in this section shall prevent the pharmacist or others from providing aggregate or other data, which does not identify the patient to~~

~~qualified researchers, including pharmaceutical manufacturers, for purposes of clinical, pharmacoepidemiological, or pharmaco-economic research.~~

(3) Any person who has knowledge by virtue of his office or occupation of any prescription drug order, record, or pharmacy-related information that specifically identifies an individual patient shall not divulge such information except as authorized in ~~subsections (1) and (2) of this section.~~ Any person or entity to whom information is divulged pursuant to ~~subsection (1) of this section~~ shall not divulge such information except in compliance with this section.

(43) Nothing in this section shall limit the authority of the board or its representatives from inspecting the records of ~~pharmacies or pharmacists~~ licensees and registrants or the authority of any other board with licensees or registrants who have prescriptive authority from performing any other duty or authority of that board, nor shall this section limit a court of competent jurisdiction from ordering the release or disclosure of such records upon a showing of just cause after such review or hearing as the court deems necessary and proper. This section shall not limit the authority of any other board or agency to inspect records of persons it regulates, notwithstanding that the records may contain information protected by the provisions of this section.

(54) In addition to all other penalties as provided by law, any person or entity found by the board to be in violation of the provisions of this section shall be subject to an administrative penalty not to exceed three thousand dollars (\$3,000) for each violation.

(65) No person shall be liable, nor shall a cause of action exist, for any loss or damage based ~~upon~~ on the proper good faith release of records pursuant to the provisions of ~~subsection (1) or (2) of this section.~~

SECTION 17. That Section 54-1728, Idaho Code, be, and the same is hereby amended to read as follows:

54-1728. PENALTIES AND REINSTATEMENT INTERVALS. (1) Upon the finding of the existence of grounds for discipline of any person or business entity holding a ~~license or registration, seeking a license or registration, or a renewal license or registration~~ renewing a certificate under the provisions of this chapter, the board of pharmacy may impose ~~one (1) or more~~ any of the following penalties:

- (a) Suspension of the offender's ~~license or registration~~ certificate for a term to be determined by the board;
- (b) Revocation of the offender's ~~license or registration~~ certificate;
- (c) Restriction of the offender's ~~license or registration~~ certificate to prohibit the offender from performing certain acts or from engaging in the practice of pharmacy in a particular manner for a term to be determined by the board;
- (d) Refusal to issue or renew the offender's ~~license or registration~~ certificate;
- (e) Placement of the offender on probation and supervision by the board for a period to be determined by the board;
- (f) Imposition of an administrative fine not to exceed two thousand dollars (\$2,000) for each occurrence providing a basis for discipline.

(2) 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 to suspend, revoke, or restrict the ~~license or registration~~ certificate. Such proceedings shall be promptly instituted and processed. Any person whose ~~license or registration~~ certificate has been disciplined pursuant to this subsection can contest the emergency proceedings and appeal under the applicable provisions of chapter 52, title 67, Idaho Code.

(3) The board may take any action against a nonresident licensee or registrant that the board can take against a resident licensee or registrant for violation of the laws of this state or the state in which it resides.

(4) The board may report any violation by a nonresident licensee or registrant, or its agent or employee, of the laws and rules of this state, the state in which it resides or the United States to any appropriate state or federal regulatory or licensing agency including, but not limited to, the regulatory agency of the state in which the nonresident licensee or registrant is a resident.

~~(5) The board may elect to not initiate an administrative action under Idaho law against a nonresident licensee or registrant upon report of a violation of law or rule of this state if the licensee's or registrant's home state commences an action for the violation complained of; provided however, that the board may elect to initiate an administrative action if the home state action is unreasonably delayed or the home state otherwise fails to take appropriate action for the reported violation.~~

~~(6) The suspension, revocation, restriction or other action taken against a licensee or registrant by a state licensing board with authority over a licensee's or registrant's professional license or registration certificate or by the drug enforcement administration may result in the board's issuance of an order likewise suspending, revoking, restricting or otherwise affecting the license or registration certificate in this state, without further proceeding, but subject to the effect of any modification or reversal by the issuing state or the drug enforcement administration.~~

(76) The assessment of costs and fees incurred in the investigation and prosecution or defense of a person holding a license or registration, seeking a license or registration, or renewing a license or registration certificate under this chapter shall be governed by the provisions of section 12-117(5), Idaho Code.

(87) Any person or business entity whose license certificate to practice pharmacy in this state has been suspended, revoked, or restricted pursuant to this chapter, ~~or any drug outlet whose certificate of registration has been suspended, revoked or restricted pursuant to this chapter,~~ whether voluntarily or by action of the board, shall have the right, at reasonable intervals, to petition the board for reinstatement of such license certificate. Such petition shall be made in writing and in the form prescribed by the board. Upon investigation and hearing, the board may in its discretion grant or deny such petition, or it may modify its original finding to reflect any circumstances which have changed sufficiently to warrant such modifications.

(98) Nothing herein shall be construed as barring criminal prosecutions for violations of the act where such violations are deemed as criminal offenses in other statutes of this state or of the United States.

~~(109)~~ All final decisions by the board shall be subject to judicial review pursuant to the procedures of the administrative procedure act.

SECTION 18. That Section 54-1729, Idaho Code, be, and the same is hereby amended to read as follows:

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

- (a) If a nonresident, be licensed or registered and in good standing in the applicant's state of residence and, if a pharmacy, have a PIC who is registered by the board;
- (b) Submit a written application in the form prescribed by the board; and
- (c) Pay the fee or fees specified by the board for the issuance of the registration or license certificate.

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

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

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

(4) It shall be lawful for any outlet or facility to sell and distribute nonprescription drugs. Outlets engaging in the sale and distribution of such items shall not be deemed to be improperly engaged in the practice of pharmacy. No rule will be adopted by the board under this chapter that requires the sale of nonprescription drugs by a pharmacist or under the supervision of a pharmacist or otherwise applies to or interferes with the sale and distribution of such medicines.

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

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

(7) A successful applicant for ~~registration~~ a certificate under the provisions of this section shall comply with the board's laws and rules of this state unless compliance would violate the laws, regulations, or rules in the state in which the licensee or registrant is located.

(8) Renewal shall be required annually and submitted to the board no later than December 31. The board shall specify by rule the procedures to be followed and the fees to be paid for renewal of ~~registration or licensure~~ a certificate.

SECTION 19. 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 54-1729A, Idaho Code, and to read as follows:

54-1729A. WHOLESALE DRUG DISTRIBUTOR -- LICENSURE. (1) In addition to meeting federal requirements, every business entity that engages in the wholesale distribution of prescription drugs in or into Idaho must be licensed by the board as a wholesale distributor except:

- (a) Manufacturers distributing their own federal food and drug administration-approved drugs and devices, including distribution of prescription drug samples by manufacturers' representatives and intracompany sales, meaning any transaction or transfer between any division, subsidiary, parent, or affiliated or related company under common ownership and control of a corporate entity or any transfer between col-

icensees of a colicensed product, unless particular requirements are deemed necessary and appropriate following rulemaking;

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

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

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

(2) The board shall not issue a wholesale distributor license to an applicant unless the board determines that the designated representative meets the following qualifications:

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

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

(3) All applicant-designated representatives shall submit to a fingerprint-based criminal history check of the Idaho central criminal history database and the federal bureau of investigation criminal history database. Each applicant shall submit a completed ten (10) finger fingerprint card or scan to the board of pharmacy at the time of application and shall pay the cost of the criminal history check.

(4) A wholesale distributor shall have adequate processes in place for monitoring purchase activity of customers and identifying suspicious ordering patterns that indicate potential diversion or criminal activity related to controlled substances such as orders of unusual size, orders deviating substantially from a normal pattern, orders for drugs that are outside of the prescriber's scope of practice, or orders of unusual frequency.

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

SECTION 20. That Section 54-1730, Idaho Code, be, and the same is hereby amended to read as follows:

54-1730. DRUG OUTLET APPLICATION PROCEDURES. (1) The board shall specify by rule the ~~registration~~ procedures to be followed, including, but not limited to, ~~specification of forms for use in applying for such certificates of registration~~ and times, places and fees for filing such application.

(2) Applications for ~~certificates of registration~~ shall include the following information about the proposed outlet:

(a) Ownership; and

(b) Location.

(3) ~~Certificates of registration~~ issued by the board pursuant to this chapter ~~shall not be~~ are not transferable or assignable.

(4) The board shall specify by rule minimum standards for the professional responsibility in the conduct of any outlet that has employees or personnel engaged in the practice of pharmacy. The board is specifically authorized to require that the portion of the facility pharmacy to which such ~~certificate of registration~~ applies be operated only under the direct supervision of no less than one (1) pharmacist licensed to practice in this state, and not otherwise, and to provide such other special requirements as deemed necessary.

SECTION 21. That Section 54-1731, Idaho Code, be, and the same is hereby amended to read as follows:

54-1731. NOTIFICATIONS. All registered drug outlets shall report to the board of pharmacy the occurrence of any of the following changes:

- (1) Permanent closing;
- (2) Change of ownership, ~~management~~, or location;
- (3) Disasters, accidents, and emergencies that affect the safe and continued operation of a drug outlet; and
- (4) Any and all other matters and occurrences as the board may require by rules.

SECTION 22. That Section 54-1732, Idaho Code, be, and the same is hereby amended to read as follows:

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

(2) Reinstatement of a certificate that has been suspended, revoked or restricted by the board may be granted in accordance with the procedures specified in section 54-1728(87), Idaho Code.

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

(a) The sale, delivery or administration of any prescription drug or legend drug, except an opioid antagonist pursuant to section 54-1733B, Idaho Code, or an epinephrine auto-injector pursuant to section 54-1733D, Idaho Code, unless:

(i) Such legend drug is dispensed or delivered by a pharmacist or prescriber upon an original prescription, drug order or prescription drug order by a practitioner in good faith in the course of his practice. Any person violating the provisions of this subparagraph shall be guilty of a felony and on conviction thereof shall be imprisoned in the state penitentiary for a term not to exceed three (3) years, or punished by a fine of not more than five thousand dollars (\$5,000), or by both such fine and imprisonment; or

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

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

(c) The possession or use of a legend drug or a precursor, except an opioid antagonist pursuant to section 54-1733B, Idaho Code, or an epinephrine auto-injector pursuant to section 54-1733D, Idaho Code, by any person unless such person obtains such drug on the prescription or drug order of a practitioner. Any person guilty of violating the provisions

of this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year or punished by a fine of not more than one thousand dollars (\$1,000), or by both such fine and incarceration.

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

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

(ii) The sale of minimal quantities of prescription drugs to practitioners for office use or to dispensing drug outlets for a specific patient need;

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

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

(v) Other exemptions as permitted by federal law.

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

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

(g) It is unlawful to:

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

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

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

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

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

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

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

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

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

SECTION 23. That Section 54-1733A, Idaho Code, be, and the same is hereby amended to read as follows:

54-1733A. TRANSMISSION OF PRESCRIPTION DRUG ORDERS. A valid prescription drug order may be transmitted to a licensed registered pharmacy in accordance with federal law by the following means:

(1) By delivery of the original signed written prescription drug order or a digital image of the order; or

(2) By a prescriber, prescriber's agent, or representative of a state-licensed or federally certified provider community:

(a) Electronically in compliance with the uniform electronic transactions act, chapter 50, title 28, Idaho Code, or via a secure, interoperable information technology system that exchanges data accurately and in compliance with applicable laws;

(b) Verbally; or

(c) Via facsimile.

SECTION 24. That Section 54-1733B, Idaho Code, be, and the same is hereby amended to read as follows:

54-1733B. OPIOID ANTAGONISTS. (1) Notwithstanding any other provision of law, any health professional licensed or registered under this title, acting in good faith and exercising reasonable care, may prescribe and dispense an opioid antagonist to: any person or entity.

~~(a) A person at risk of experiencing an opiate-related overdose;~~

~~(b) A person in a position to assist a person at risk of experiencing an opiate-related overdose;~~

~~(c) A person who, in the course of his official duties or business, may encounter a person experiencing an opiate-related overdose; or~~

~~(d) A person who, in the opinion of the health professional licensed or registered under this title, has valid reason to be in the possession of an opioid antagonist.~~

(2) Notwithstanding any other provision of law, any person acting in good faith and exercising reasonable care may administer an opioid antagonist to another person who appears to be experiencing an opiate-related overdose. As soon as possible, the administering person shall contact emergency medical services.

(3) Any person who prescribes, dispenses, or administers an opioid antagonist pursuant to subsection (1) or (2) of this section shall not be liable in a civil or administrative action or subject to criminal prosecution for such acts.

(4) As used in this section, "opioid antagonist" means naloxone hydrochloride or any other similarly acting and equally safe drug approved by the federal food and drug administration for the treatment of drug overdose.

SECTION 25. That Section 54-1733D, Idaho Code, be, and the same is hereby amended to read as follows:

54-1733D. EPINEPHRINE AUTO-INJECTORS -- PRESCRIPTION AND ADMINISTRATION. (1) Notwithstanding any other provision of law, any prescriber or pharmacist acting in good faith and exercising reasonable care may prescribe an epinephrine auto-injector to: any person or entity.

~~(a) A person at risk of experiencing anaphylaxis;~~

~~(b) A person in a position to assist a person at risk of experiencing anaphylaxis;~~

~~(c) A person who, in the course of the person's official duties or business, may encounter a person experiencing anaphylaxis; and~~

~~(d) A person who, in the opinion of the prescriber or pharmacist, has a valid reason to be in possession of an epinephrine auto-injector.~~

(2) Notwithstanding any other provision of law, any person acting in good faith and exercising reasonable care may administer an epinephrine auto-injector to another person who appears to be experiencing anaphylaxis. As soon as possible, the administering person shall contact emergency medical services.

(3) Any person who prescribes, dispenses, or administers an epinephrine auto-injector pursuant to subsection (1) or (2) of this section shall not be liable in a civil or an administrative action or subject to criminal prosecution for such acts.

(4) As used in this section, "epinephrine auto-injector" means a single-use device used for the automatic injection of a premeasured dose of epinephrine into the human body.

SECTION 26. That Section 54-1736, Idaho Code, be, and the same is hereby amended to read as follows:

54-1736. DECLARATION OF COMMON NUISANCE. Any store, shop, warehouse, dwelling house, apartment, building, vehicle, boat, aircraft, or any place ~~whatever, which is~~ whatsoever used by any person for the purpose of unlawfully using any legend drug, or ~~which is~~ used for the unlawful keeping or selling of the same, is a common nuisance. No person shall keep, or maintain such a common nuisance, ~~nor~~ or frequent or visit such place, knowing it to be used for any said purposes.

SECTION 27. 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 54-1737A, Idaho Code, and to read as follows:

54-1737A. RESTRICTIONS ON TRANSACTIONS. (1) A wholesale distributor shall not engage in the wholesale distribution of prescription drugs purchased from pharmacies or practitioners or from wholesale distributors that purchase them from pharmacies or practitioners.

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

(3) Prescription drugs furnished by a manufacturer or wholesale distributor shall be delivered only to a principal place of business or a professional practice.

SECTION 28. That Section 54-1739, Idaho Code, be, and the same is hereby amended to read as follows:

54-1739. PROSPECTIVE DRUG REVIEW AND COUNSELING. (1) Before dispensing any new prescription, a pharmacist shall complete a prospective drug review.

(2) Before dispensing a prescription for a new medication, or when otherwise deemed necessary or appropriate, a pharmacist shall counsel the patient or caregiver. Counseling shall include such supplemental written materials as required by law or as are customary in that practice setting. For refills or renewed prescriptions, a pharmacist or a technician shall extend an offer to counsel the patient or caregiver. If such offer is accepted, a pharmacist shall provide such counseling as necessary or appropriate in the professional judgment of the pharmacist. All counseling and offers to counsel shall be face-to-face with the patient or caregiver when possible, but if not possible, then a reasonable effort shall be made to contact the patient or caregiver. Nothing in this section shall require a pharmacist to provide counseling when a patient or caregiver refuses such counseling or when counseling is otherwise impossible. Patient counseling shall not be required for inpatients of a hospital or institutional facility when licensed health care professionals administer the medication.

(3) This section shall apply to all registered and licensed outlets.

SECTION 29. That Section 54-1751, Idaho Code, be, and the same is hereby repealed.

SECTION 30. That Section 54-1752, Idaho Code, be, and the same is hereby repealed.

SECTION 31. That Section 54-1753, Idaho Code, be, and the same is hereby repealed.

SECTION 32. That Section 54-1754, Idaho Code, be, and the same is hereby repealed.

SECTION 33. That Section 54-1757, Idaho Code, be, and the same is hereby repealed.

SECTION 34. That Section 54-1758, Idaho Code, be, and the same is hereby repealed.

SECTION 35. That Section 54-1759, Idaho Code, be, and the same is hereby repealed.

SECTION 36. 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) "Donation repository" means:

- (a) A community health center as defined in section 39-3203, Idaho Code;
- (b) A free medical clinic as defined in section 39-7702, Idaho Code;
- (c) A designated regional behavioral health center as identified in chapter 31, title 39, Idaho Code;

(d) A state charitable institution as defined in chapter 1, title 66, Idaho Code; or

(e) A drug outlet as defined in section 54-1705, Idaho Code.

(2) "Legend drug" has the same meaning as provided in section 54-1705(358), Idaho Code.

(3) "Medically indigent patient" means any person who is a resident of Idaho and who meets one (1) of the following conditions:

(a) The person is not eligible for medicaid or medicare;

(b) The person cannot afford private prescription drug insurance; or

(c) The person does not have income and other resources available sufficient to pay for a legend drug.

(4) "Qualified donor" means:

(a) Any entity that meets the definition of "donation repository" as provided in this section; or

(b) Any member of the public in accordance with section 54-1762, Idaho Code.

SECTION 37. That Section 54-1762A, Idaho Code, be, and the same is hereby amended to read as follows:

54-1762A. DRUG DONATION FOR ANIMALS. Notwithstanding any other provision of law:

(1) An owner or a legal caretaker of an animal may donate a drug that is dispensed for the animal, but will not be used by that animal, to a licensed veterinarian of a veterinary medical facility, as that term is defined in section 54-2103, Idaho Code, if the veterinarian or facility chooses to accept the drug.

(2) A licensed veterinarian or a veterinary medical facility may accept and reissue drugs donated pursuant to this section and from qualified donors listed in section 54-17621(4), Idaho Code, if:

(a) The drug is not expired;

(b) There is no reason to believe the drug has been adulterated;

(c) The drug is not a controlled substance; and

(d) The drug is not a compounded drug; ~~and~~

~~(e) If a liquid, the drug is packaged in a single dose in an ampule or vial.~~

(3) A licensed veterinarian or a veterinary medical facility may not resell the donated drug.

(4) A licensed veterinarian or a veterinary medical facility may, however, reissue the donated drug, without charge, for proper administration to an animal by:

(a) Another client of the veterinarian or facility who appears to be financially unable to pay for the drug;

(b) A nonprofit animal shelter; or

(c) A pound, as that term is defined in section 25-3502, Idaho Code.

SECTION 38. That Section 54-1764, Idaho Code, be, and the same is hereby amended to read as follows:

54-1764. IMMUNITY FROM LIABILITY. Any entity that lawfully and voluntarily participates by donating, accepting, distributing or dispensing legend drugs under the Idaho legend drug donation act shall be immune from liability for any civil action arising out of the provision of such action. This section shall not extend immunity to the participating entity for any acts constituting intentional, willful or grossly negligent conduct or to acts by a participating entity that are outside the scope of practice authorized by the entity's licensure, ~~certification or registration~~ certificate.

SECTION 39. That Section 54-1765, Idaho Code, be, and the same is hereby repealed.

SECTION 40. That Section 54-4702, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

(a) Surgery; or

(b) Prescribing, dispensing or administering any prescription drug or legend drug as defined in section 54-1705(358), Idaho Code.

Approved March 15, 2021

CHAPTER 55
(H.B. No. 38)

AN ACT

RELATING TO THE IDAHO TELEHEALTH ACCESS ACT; AMENDING SECTION 54-5707, IDAHO CODE, TO PROVIDE FOR CERTAIN PRESCRIPTION DRUG ORDERS USING TELEHEALTH.

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

SECTION 1. That Section 54-5707, Idaho Code, be, and the same is hereby amended to read as follows:

54-5707. PRESCRIPTIONS. (1) A provider with an established provider-patient relationship, including a relationship established pursuant to section 54-5705, 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 title 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.

Approved March 15, 2021

CHAPTER 56
(H.B. No. 204)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 2021; APPROPRIATING AND TRANSFERRING MONEYS FROM THE GENERAL FUND TO THE PARKS AND RECREATION FUND; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 2021; AND DECLARING AN EMERGENCY.

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

SECTION 1. CASH TRANSFER. There is hereby appropriated and the Office of the State Controller shall transfer \$3,000,000 from the General Fund to the Parks and Recreation Fund as soon as practicable for the period July 1, 2020, through June 30, 2021.

SECTION 2. In addition to the appropriation made in Section 1, Chapter 170, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Department of Parks and Recreation for the Capital Development Program \$3,000,000 from the Parks and Recreation Fund to be expended for capital outlay for the period July 1, 2020, through June 30, 2021.

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 16, 2021

CHAPTER 57
(S.B. No. 1041)

AN ACT

RELATING TO CONSUMER PROTECTION; AMENDING SECTION 48-603, IDAHO CODE, TO REVISE PROVISIONS REGARDING EXCESSIVE INCREASED PRICES FOR CERTAIN ITEMS DURING AN EMERGENCY AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 48-603, Idaho Code, be, and the same is hereby amended to read as follows:

48-603. UNFAIR METHODS AND PRACTICES. The following unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared to be unlawful, where a person knows, or in the exercise of due care should know, that he has in the past, or is:

- (1) Passing off goods or services as those of another;
- (2) Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of goods or services;
- (3) Causing likelihood of confusion or of misunderstanding as to affiliation, connection, or association with, or certification by, another;
- (4) Using deceptive representations or designations of geographic origin in connection with goods or services;

(5) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, connection, qualifications or license that he does not have;

(6) Representing that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used, or secondhand;

(7) Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;

(8) Disparaging the goods, services, or business of another by false or misleading representation of fact;

(9) Advertising goods or services with intent not to sell them as advertised;

(10) Advertising goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity;

(11) Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;

(12) Obtaining the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed;

(13) Failing to deliver to the consumer at the time of the consumer's signature a legible copy of the contract or of any other document which that the seller or lender has required or requested the buyer to sign, and which that he has signed, during or after the contract negotiation;

(14) Making false or misleading statements of fact concerning the age, extent of use, or mileage of any goods;

(15) Promising or offering to pay, credit or allow to any buyer or lessee, any compensation or reward in consideration of his giving to the seller or lessor the names of prospective purchasers or lessees, or otherwise aiding the seller or lessor in making a sale or lease to another person, if the earning of the rebate, discount or other value is contingent upon the occurrence of an event subsequent to the time the buyer or lessee agrees to buy or lease;

(16) Representing that services, replacements or repairs are needed if they are not needed, or providing services, replacements or repairs that are not needed;

(17) Engaging in any act or practice which that is otherwise misleading, false, or deceptive to the consumer;

(18) Engaging in any unconscionable method, act or practice in the conduct of trade or commerce, as provided in section 48-603C, Idaho Code, provided, however, that the provisions of this subsection shall not apply to a regulated lender as that term is defined in section 28-41-301, Idaho Code;

(19) (a) Taking advantage of a disaster or emergency declared by the governor under chapter 10, title 46, Idaho Code, or the president of the United States under the provisions of the disaster relief act of 1974, 42 U.S.C. section 5121 et seq., by selling or offering to sell to the ultimate consumer fuel or food, pharmaceuticals, or water for human consumption at an exorbitant or excessive increased price to the ultimate consumer; provided however, this subsection shall apply only to the location and for the duration of the declaration of emergency. In determining whether a price an increase in price to the ultimate consumer is exorbitant or excessive, the court shall consider an increase in the price of goods sold but shall not consider any increase in the margin earned through such sales and, with respect to price increases, shall take into consideration the facts and circumstances, including, but not limited to:

(ai) ~~A comparison between the price paid by the alleged violator for the fuel, food, pharmaceuticals, or water and the The increased price, if any, for which the alleged violator sold these same items fuel, food, pharmaceuticals, or water to the ultimate consumer immediately before and after the period specified by the disaster or emergency declaration;~~

(bii) ~~Additional costs of doing business incurred by the alleged violator and increased prices due to loss of sales or volume sold because of the disaster or emergency; and~~

(eiii) ~~The duration of the disaster or emergency declaration.~~

(b) ~~Notwithstanding anything to the contrary contained elsewhere in the act this chapter,~~ no private cause of action exists under 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 17, 2021

CHAPTER 58
(S.B. No. 1049)

AN ACT

RELATING TO BANKS; AMENDING SECTION 26-208, IDAHO CODE, TO REVISE PROVISIONS REGARDING MEETINGS OF A BANK BOARD OF DIRECTORS; AMENDING SECTION 26-213, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE MEMBERSHIP AND MEETINGS OF A BANK BOARD OF DIRECTORS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 26-707, IDAHO CODE, TO REMOVE PROVISIONS REGARDING THE REAL ESTATE HOLDINGS OF A BANK AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 26-1104, IDAHO CODE, TO REVISE PROVISIONS REGARDING FEES ON CERTAIN BANKS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 26-208, Idaho Code, be, and the same is hereby amended to read as follows:

26-208. PLACE OF MEETINGS. ~~All meetings of stockholders of a bank shall be held in the community of its principal place of business within this state. When so provided in the articles of incorporation or bylaws, or by resolution of the board of directors,~~ Regular or special meetings of the board of directors or the executive committee may be held for the transaction of any business of the bank at any other place within the state of Idaho provided that the director may approve meetings of the board of directors or outside of the state of Idaho. Unless restricted by the articles of incorporation or bylaws of the bank, any or all directors may participate in any meeting of the board of directors through the use of any means of communication by which all directors participating may simultaneously communicate with each other during the meeting. A director participating in a meeting by this means is deemed to be present as though in person at the meeting.

SECTION 2. That Section 26-213, Idaho Code, be, and the same is hereby amended to read as follows:

26-213. BOARD OF DIRECTORS -- ELECTION, MEETINGS, DUTIES, LIABILITIES, OATH, REMOVAL -- OFFICERS -- ELECTION AND BOND. (1) The affairs, business and property of a bank shall be managed and controlled by a board of not less than five (5) directors, who shall be elected by the stockholders at their regular stated annual meetings. ~~A majority of said directors shall be residents of the state of Idaho.~~

(2) No person shall be eligible to serve as a director of any bank organized or existing under the laws of this state, unless he shall be the owner in his own right of unhyponthecated common stock of the bank in the amount of at least five hundred dollars (\$500) par value. One (1) or more of the directors of a bank, the majority of the common stock of which is owned by a bank holding company, may satisfy the requirement of this subsection by owning in his own right at least five hundred dollars (\$500) of the unhyponthecated common stock of the bank holding company, either the par value or the book value.

(3) Any vacancy in the board of directors shall be filled by the board, and any directors so appointed shall hold office until the next annual meeting of stockholders. The board of directors shall, immediately following each annual meeting of stockholders, organize and elect a president, ~~vice-president~~ vice president, and cashier, who may also be the secretary and treasurer of the bank, and such other officers as shall be provided for in the bylaws, and shall fix the salary of all officers and employees or delegate such authority to its managing officer or officers. Directors of every bank shall hold at least ~~ten six~~ (106) meetings per year; provided, no more than ~~sixty-five~~ ninety (6590) days may elapse between board of directors meetings, and complete records of such meetings shall be entered in the minute book and signed by both the chairman and the secretary. ~~The director may approve, upon written application, a reduction in the number and frequency of directors' meetings.~~

(4) Whenever a vote is taken upon any matter, a record shall be kept and entered in the minutes of those voting in the affirmative and those voting in the negative. At every meeting it shall be the duty of the directors to familiarize themselves with loans and investments made since the previous regular meeting, and any director may request a listing of all loans made since the previous regular meeting. It shall be the duty of the president and cashier to furnish such information to the directors. The directors shall familiarize themselves with the existing liabilities to the bank of every officer and director of their bank at least once during each calendar year. The minutes of the meeting shall record the approval or disapproval of loans, investments and liabilities of officers.

(5) Any director, officer or person who shall participate in any violation of the laws of this state relative to banks or banking, shall be liable for all damages which said bank, its stockholders, depositors, or creditors shall sustain in consequence of such violation. It shall be the duty of every director of a bank personally to attend all meetings of the board of directors unless unavoidably detained therefrom. Any director who shall habitually absent himself from such meeting shall be deemed to have participated in any violation of law that may have occurred in his absence, and he shall not be permitted to set up such absence as a defense thereto.

(6) Every director shall take and subscribe an oath that he will diligently and honestly perform his duty in such office and will not knowingly violate or permit a violation of any provisions of the bank act, and such oath of office shall be transmitted to and filed with the department of finance. A director may be removed from office at any time for violation of his oath of office by the affirmative vote of two-thirds (2/3) of the entire board, exclusive of the director to be removed.

(7) Every active officer and employee of any bank in this state shall furnish a surety bond in the penal sum of fifty thousand dollars (\$50,000) to the bank by which he is employed for the faithful performance of his duties, executed by a surety company authorized to do business in the state of Idaho as a surety. In lieu of the individual surety bonds required by this section, a bank may provide a bankers blanket or financial institution bond in a minimum amount of two hundred fifty thousand dollars (\$250,000). The conditions of such bond, whether the instrument so describes the conditions or not, shall be that the principal shall protect the obligee against any loss or liability that the obligee may suffer or incur by reason of the acts of dishonesty of the principal.

(8) In lieu of the bonds required in subsection (7) of this section, a bank may, with the approval of the director of the department of finance, provide to the director a certificate of deposit issued by any other bank in the state of Idaho. The principal amount of the certificate of deposit shall be payable to the director and shall be in an amount to be determined by the director, but not less than two hundred fifty thousand dollars (\$250,000). The interest on the certificate of deposit shall be payable to the bank providing the certificate of deposit to the director. The certificate of deposit shall be maintained at all times the bank is authorized to do business under this chapter, and for a period of time thereafter to be determined by the director, but not to exceed three (3) years.

(9) Every bank shall provide adequate insurance protection or indemnity against robbery and burglary and other similar insurable losses.

(10) All surety bonds shall be approved by and filed with the directors. The directors or the director may require an increase of the amount of any such bond whenever either the directors or the director deem necessary for the better protection of the bank.

SECTION 3. That Section 26-707, Idaho Code, be, and the same is hereby amended to read as follows:

26-707. REAL ESTATE HOLDINGS. A bank may purchase, acquire, hold and convey real estate for the following purposes only:

(1) Such as shall be necessary for the convenient transaction of its business, including at the same location as its banking offices' other property to rent as a source of income; provided however, that no bank shall invest in buildings and, lots and, furniture, fixtures and equipment in an amount greater than fifty percent (50%) of the capital structure of such bank.

(2) Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of business.

(3) Such as it shall purchase at sale on judgments, decrees, mortgage foreclosures or trustee's sale for debts previously contracted, but a bank shall not bid at such sale a larger amount than is necessary to satisfy all debts and costs necessary to obtain clear title. Real estate acquired for debts previously contracted shall be carried on the books of the bank at the lower of cost or market value. Market value shall be determined by:

(a) An appraisal prepared by a state-certified or state-licensed appraiser; or

(b) An appropriate evaluation when the recorded investment is equal to or less than two hundred fifty thousand dollars (\$250,000).

If a bank has a valid appraisal or an appropriate evaluation that was previously obtained in connection with a real estate loan, a new appraisal or evaluation is not required at the time the bank acquires the property to determine the market value of real estate acquired for debts previously contracted. A bank may defer obtaining an appraisal or evaluation for a period not to exceed three (3) months following acquisition of the real estate if the bank documents a reasonable expectation that a sale of the real estate, other than in a transaction involving an affiliated party, will be consummated during a period of three (3) months following the acquisition of the property. If the property is not sold during the expected three (3) month period, a new appraisal or appropriate evaluation as set forth in paragraphs (a) and (b) of this subsection must be obtained. Thereafter, the director may in his discretion require an appraisal or evaluation if the director believes it is necessary to address safety and soundness concerns. A bank shall develop and maintain prudent real estate appraisal and evaluation policies and procedures to monitor the market value of real estate acquired for debts previously contracted, in accordance with applicable real estate appraisal and evaluation guidelines.

(4) No real estate acquired under subsections (2) and (3) of this section may be held for a longer period than five (5) years, provided however, that upon application by the bank, the director shall approve the continued holding of any such real estate by the bank for an additional period of five (5) years upon the bank's showing of its good faith attempt to dispose of the real estate within the first five (5) year period, or showing that disposal within the first five (5) year period would be detrimental to the bank; and provided further that the bank shall, during the second five (5) year period, at the end of each year beginning at the end of the sixth year in which the property is held, write down the value of such real estate by twenty percent (20%) of the value at which such real estate is carried on its books at the beginning of the second five (5) year period. Value at the beginning of the second five (5) year period shall be the lower of cost or market value as determined pursuant to appraisal as provided in subsection (3) of this section. Nothing in this section shall be construed to prevent a bank from making loans secured by real estate as provided in this act, or a trust department holding and conveying real estate in trust.

(5) A bank may, with the approval of the director and the board of governors of the federal reserve system or the federal deposit insurance corporation, invest in bank premises or in the stock, bonds, debentures, or other obligations of any corporation holding the banking buildings, lots and, furniture, fixtures and equipment of such bank in an amount not to exceed the capital and surplus of the bank.

SECTION 4. That Section 26-1104, Idaho Code, be, and the same is hereby amended to read as follows:

26-1104. FEES. (1) On January 15 of each year, the director shall fix and collect from each state bank a fee based upon the amount of the total assets of the bank as of December 31 of the preceding calendar year, which fees shall not exceed the amounts set forth in the following schedule:

TOTAL ASSETS	MAXIMUM FEE
\$0 to \$1 million	\$1,500 Flat Fee
\$1 million to \$10 million	\$2,000 + \$.25 per thousand dollars of assets in excess of \$1 million
\$10 million to \$50 million	\$4,250 + \$.19 per thousand dollars of assets in excess of \$10 million
\$50 million to \$100 million	\$11,850 + \$.12 per thousand dollars of assets in excess of \$50 million
\$100 million to \$500 million	\$17,850 + \$.10 per thousand dollars of assets in excess of \$100 million
\$500 million to \$1 billion	\$57,850 + \$.09 per thousand dollars of assets in excess of \$500 million
\$1 billion to \$3 billion	\$102,850 + \$.08 per thousand dollars of assets in excess of \$1 billion
\$3 billion to \$10 billion	\$262,850 + \$.07 per thousand dollars of assets in excess of \$3 billion
\$10 billion to \$20 billion	\$369,425 <u>752,850</u> + \$.03 per thousand dollars of assets in excess of \$10 billion
\$20 billion and over	\$689,425 <u>1,052,850</u> + \$.02 per thousand dollars of assets in excess of \$20 billion

(2) In addition to the foregoing, each state bank shall pay to the director an additional sum not to exceed one hundred dollars (\$100) for each office and branch office maintained by said bank. The director shall collect from each bank for each special examination of its condition an amount sufficient to reimburse the director for the actual expenses incurred in connection therewith.

(3) The director may, in his discretion, assess state banks and state bank holding companies for the review, analysis and investigation of an application to:

- (a) Charter or incorporate a bank or bank holding company;
- (b) Establish a branch or office;
- (c) Merge with, acquire, or be acquired by another bank or bank holding company located in or outside of Idaho; and
- (d) Convert to an entity other than a state bank or bank holding company.

(4) For banks operating in Idaho with a home state other than Idaho, the director may, in his discretion, enter into a cooperative agreement with the home state supervisor of the bank to assess supervisory fees on the bank. The fees may include assessments, examination fees, branch fees, license fees and all other fees that are levied by the director on state banks. If such agreement has been entered, the director may, in his discretion, assess supervisory fees on banks operating in Idaho with home states other than Idaho.

(5) All fees, fines, examination and miscellaneous charges collected by the director pursuant to the Idaho bank act shall be deposited into the finance administrative account pursuant to section 67-2702, Idaho Code.

Approved March 17, 2021

CHAPTER 59
(S.B. No. 1091)

AN ACT

RELATING TO THE APPROPRIATION TO THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 2021; APPROPRIATING ADDITIONAL MONEYS TO THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 2021; 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 316, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Office of the State Board of Education for the OSBE Administration Program \$50,000 from the Miscellaneous Revenue Fund to be expended for trustee and benefit payments for the period July 1, 2020, through June 30, 2021, for the purpose of providing grants for agricultural research and education programs.

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, 2021

CHAPTER 60
(S.B. No. 1093)

AN ACT

RELATING TO PHYSICIAN ASSISTANTS; AMENDING SECTION 54-1807A, IDAHO CODE, TO PROVIDE REQUIREMENTS REGARDING PHYSICIAN ASSISTANTS WHO PRACTICE AT CERTAIN FACILITIES OR PRACTICES OR WHO OWN A MEDICAL PRACTICE.

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

SECTION 1. That Section 54-1807A, Idaho Code, be, and the same is hereby amended to read as follows:

54-1807A. PHYSICIAN ASSISTANTS -- ~~SUPERVISING PHYSICIANS~~ -- PHYSICIAN ASSISTANT ADVISORY COMMITTEE. (1) Physician assistants must be licensed by the board prior to the commencement of activities which may involve the practice of medicine in this state. The licensure requirements for physician assistants shall include passage of an examination acceptable to the board and submission of a completed application to the board on forms furnished by the board. All applicants for original licensure as a physician assistant shall submit to a fingerprint-based criminal history check of the Idaho central criminal database and the federal bureau of investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints on forms supplied by the board which shall be forwarded by the board to the Idaho department of law enforcement and to the federal bureau of investigation identification division. ~~Upon licensure, the board shall authorize each physician assistant to assist a physician or group of physicians who are qualified and approved by the board to supervise physician assistants to engage in activities as limited by the board.~~ The board shall fix a license fee. All physician assistants shall renew their licenses annually or biannually.

~~(2) After a supervising physician or alternate supervising physician receives board approval to supervise a physician assistant, the physician may delegate medical services to the physician assistant as set forth in the delegation of services agreement on forms approved by and filed with the board. The physician assistant may perform delegated medical services in any setting authorized by the supervising physician or alternate supervising physician and the board, including clinics, hospitals, ambulatory surgical centers, patient homes, nursing homes and other health care institutions. A physician assistant may practice at a licensed health care facility, a facility with a credentialing and privileging system, a physician-owned facility or practice, or another facility or practice allowed by this chapter. A physician assistant shall collaborate with, consult with, or refer to the appropriate member of the facility health care team as indicated by: the condition of the patient; the education, experience, and competence of the physician assistant; and the community standard of care. The degree and nature of collaboration shall be determined by the facility or practice in which the physician assistant works and shall be set forth in facility bylaws or procedures for facilities that have credentialing and privileging systems or in a written collaborative practice agreement for all other facilities and practices. Such provisions may provide for collaborative oversight to be provided by the employer, group, hospital service, or the credentialing and privileging systems of a licensed facility, but at a minimum shall require a physician assistant to collaborate with one (1) or more physicians licensed pursuant to this chapter. Such physicians need not be identified individually in the facility bylaws or procedures or collaborative practice agreement if more than one (1) physician works in the facility or practice. A physician assistant is responsible for the care provided by the physician assistant and is responsible for obtaining professional liability insurance if the physician assistant is not covered by the facility or practice in which the physician assistant works. A physician assistant may be employed by nonphysician health care providers if the physician assistant has a written collaborative practice agreement with one (1) or more physicians licensed pursuant to this chapter. Both the physician assistant and the physician who are parties to a collaborative practice agreement must comply with all requirements of this chapter and board rules. The collaborative practice agreement shall be provided to the board upon request.~~

~~(3) The supervising physician and alternate supervising physician are responsible for all aspects of the performance of a physician assistant, whether or not the supervising physician or alternate supervising physician actually pays the physician assistant a salary, and are responsible for supervising the physician assistant and ensuring that the medical services performed by the physician assistant are within the physician assistant's scope of training and experience and have been properly delegated by the supervising physician or alternate supervising physician.~~

~~(4) Supervision by a supervising physician or alternate supervising physician shall be continuous but shall not be construed as necessarily requiring the constant physical presence of the supervising physician or alternate supervising physician at the time and place where medical services are performed by the physician assistant.~~

~~(5) A supervising physician or alternate supervising physician shall not delegate to a physician assistant the performance of any medical services for which the supervising physician or alternate supervising physician does not have training or experience and does not perform.~~

~~(6) A physician assistant or a group of physician assistants may independently own a medical practice in this state provided that the supervising physician, alternate supervising physician and each physician assistant comply with all requirements of this section and board rules each physician assistant has a collaborative practice agreement in place with a physician~~

licensed under this chapter. The collaborative practice agreement shall specify that the physician assistant must collaborate with, consult with, or refer to the collaborating physician or another appropriate physician as indicated by: the condition of the patient; the education, experience, and competence of the physician assistant; and the community standard of care. Both the physician assistant and the physician who are parties to the collaborative practice agreement must comply with all requirements of this chapter and board rules. The collaborative practice agreement shall be provided to the board upon request. Each physician assistant must be licensed, registered or certified as a physician assistant in any state, territory or jurisdiction of the United States for at least two (2) years before the physician assistant may independently own a practice in this state.

(4) The facility or practice and each collaborating physician are responsible for ensuring that the medical services performed by the physician assistant are within the physician assistant's scope of education, experience, and competence. Each collaborating physician shall collaborate with the physician assistant on the performance of only those medical services for which the collaborating physician has training and experience.

(75) A physician assistant advisory committee is hereby established as follows:

(a) The physician assistant advisory committee shall consist of five (5) members appointed by the board. Four (4) members shall be physician assistants who are residents in this state and engaged in the active practice of medicine in this state, and one (1) member shall be a public member. Whenever a term of a member of the advisory committee expires or becomes vacant, the board shall give consideration to recommendations made by professional organizations of physician assistants and physicians, and any individual residing in the state. The board may remove any committee member for misconduct, incompetency or neglect of duty after giving the member a written statement of the charges and an opportunity to be heard thereon. The executive director of the Idaho state board of medicine shall serve as the executive director to the physician assistant advisory committee.

(b) Members will serve a term of three (3) years and terms will be staggered. Members may serve two (2) successive terms. The committee shall elect a chairman from its membership. The committee shall meet as often as necessary to fulfill its responsibilities. Members will be compensated according to section 59-509(p), Idaho Code.

(c) The physician assistant advisory committee shall not have authority to revoke licenses or impose limitations or conditions on licenses issued pursuant to this chapter. The committee has authority to make recommendations to the board. The board shall make all final decisions with respect thereto.

(d) The physician assistant advisory committee shall work in the following areas in conjunction with and make recommendations to the board and shall perform other duties and functions assigned to it by the board, including:

- (i) Evaluating the qualifications of applicants for licensure and registration;
- (ii) Performing investigations of misconduct and making recommendations regarding discipline;
- (iii) Maintaining a list of currently licensed physician assistants and graduate physician assistants in this state; and
- (iv) Advising the board on rule changes necessary to license and regulate physician assistants and graduate physician assistants in this state.

CHAPTER 61
(S.B. No. 1094)

AN ACT

RELATING TO THE APPROPRIATION TO THE IDAHO TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 2021; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR THE HIGHWAY OPERATIONS PROGRAM FOR FISCAL YEAR 2021; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR THE CONTRACT CONSTRUCTION AND RIGHT-OF-WAY ACQUISITION PROGRAM FOR CAPITAL OUTLAY FOR FISCAL YEAR 2021; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR THE CONTRACT CONSTRUCTION AND RIGHT-OF-WAY ACQUISITION PROGRAM FOR TRUSTEE AND BENEFIT PAYMENTS FOR FISCAL YEAR 2021; 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 195, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Idaho Transportation Department for the Highway Operations Program \$223,500 from the Federal COVID-19 Relief Fund to be expended for trustee and benefit payments for the period July 1, 2020, through June 30, 2021.

SECTION 2. In addition to the appropriation made in Section 1, Chapter 195, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Idaho Transportation Department for the Contract Construction and Right-of-Way Acquisition Program \$3,500,000 from the State Highway (COVID Relief) Fund to be expended for capital outlay for the period July 1, 2020, through June 30, 2021.

SECTION 3. In addition to the appropriation made in Section 1, Chapter 195, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Idaho Transportation Department for the Contract Construction and Right-of-Way Acquisition Program \$46,500 from the State Highway (Local) Fund to be expended for trustee and benefit payments for the period July 1, 2020, through June 30, 2021.

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

Approved March 17, 2021

CHAPTER 62
(H.B. No. 25)

AN ACT

RELATING TO STATE PARKS; REPEALING SECTION 67-4205, IDAHO CODE, RELATING TO THE APPLICABILITY OF CERTAIN LAWS TO HEYBURN PARK; REPEALING SECTION 67-4209, IDAHO CODE, RELATING TO AGREEMENTS WITH THE UNITED STATES TO OPERATE LANDS ADJACENT TO WALCOTT LAKE, AMERICAN FALLS RESERVOIR, AND CASCADE RESERVOIR AS RECREATIONAL AREAS; REPEALING SECTION 67-4210, IDAHO CODE, RELATING TO THE ADMINISTRATION OF CERTAIN AREAS BY THE PARK AND RECREATION BOARD OF THE DEPARTMENT OF PARKS AND RECREATION; REPEALING SECTION 67-4211, IDAHO CODE, RELATING TO THE EXPENDITURE OF FUNDS BY THE BOARD; REPEALING SECTION 67-4214, IDAHO CODE, RELATING TO THE CREATION OF FARRAGUT STATE PARK; REPEALING SECTION 67-4215, IDAHO CODE, RELATING TO THE CONTROL AND MANAGEMENT OF FARRAGUT STATE PARK; REPEALING SECTION 67-4216, IDAHO CODE, RELATING TO THE PROHIBITION OF ALIENATION OF FARRAGUT STATE PARK; REPEALING SECTION 67-4217, IDAHO CODE, RELATING TO THE NAMING OF REGISTER ROCK - MASSACRE ROCK STATE PARK AND HISTORICAL MONUMENT; AND REPEALING SECTION 67-4229A, IDAHO CODE, RELATING TO THE SPRING SHORES DOCK ACQUISITION AT LUCKY PEAK STATE PARK.

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

SECTION 1. That Section 67-4205, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 67-4209, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 67-4210, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 67-4211, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 67-4214, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Section 67-4215, Idaho Code, be, and the same is hereby repealed.

SECTION 7. That Section 67-4216, Idaho Code, be, and the same is hereby repealed.

SECTION 8. That Section 67-4217, Idaho Code, be, and the same is hereby repealed.

SECTION 9. That Section 67-4229A, Idaho Code, be, and the same is hereby repealed.

Approved March 17, 2021

CHAPTER 63
(H.B. No. 46)

AN ACT

RELATING TO THE MILITARY; AMENDING SECTION 46-408, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE AUTHORITY OF THOSE PERFORMING SECURITY DUTIES AT THE ORCHARD TRAINING AREA AND TO REMOVE A POST TRAINING REQUIREMENT.

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

SECTION 1. That Section 46-408, Idaho Code, be, and the same is hereby amended to read as follows:

46-408. SECURITY OF THE ORCHARD TRAINING AREA. Employees of the military division of the state of Idaho who are performing security duties at the Orchard training area located in Ada and Elmore counties may, in addition to their power to protect and secure military property and persons, ~~arrest and detain for civil law enforcement authorities,~~ any person who commits a violation of the criminal laws of this state in their presence. Persons so detained shall be released to the custody of civil law enforcement authorities as soon as practicable. ~~The employees hired to perform security duties at the Orchard training area shall complete level 1 POST academy training.~~ Employees performing duties under this section are "employees" under sections 6-902, 6-903 and 6-917, Idaho Code, and are not excluded by the exceptions to governmental liability under section 6-904 4. or 5., Idaho Code.

Approved March 17, 2021

CHAPTER 64
(H.B. No. 51)

AN ACT

RELATING TO DAIRIES; AMENDING SECTION 37-606, IDAHO CODE, TO PROVIDE THAT NUTRIENT MANAGEMENT STANDARDS SHALL PROVIDE DAIRY FARMS WITH CERTAIN OPTIONS FOR NUTRIENT MANAGEMENT PLAN IMPLEMENTATION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 37-606, Idaho Code, be, and the same is hereby amended to read as follows:

37-606. DAIRY NUTRIENT MANAGEMENT PLAN. (1) Each dairy farm 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 by-products may be applied. The nutrient management standard shall provide dairy farms with the option of a phosphorous-indexing or phosphorous threshold standard for nutrient management plan implementation.

(3) Nutrient management plans submitted to the department by the dairy farm shall identify each recipient to whom dairy by-products are exported, the amount exported to each recipient, and the number of acres to which they are applied by each recipient. The information provided pursuant to this subsection shall be available to the county in which the dairy farm is located. Only the first recipient of manure compost must be listed in the nutrient management plan.

Approved March 17, 2021

CHAPTER 65
(H.B. No. 57)

AN ACT

RELATING TO WATER; AMENDING SECTION 42-238, IDAHO CODE, TO PROVIDE THAT THE WATER RESOURCE BOARD MAY ADOPT CERTAIN RULES, TO REMOVE CERTAIN PENALTY PROVISIONS, AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 42-238b, IDAHO CODE, RELATING TO PROCEEDINGS COMMENCED PRIOR TO A DESIGNATED DATE; REPEALING SECTION 42-247, IDAHO CODE, RELATING TO NOTIFICATION OF SPECIFIED LAW; REPEALING CHAPTER 19, TITLE 42, IDAHO CODE, RELATING TO DAMS AND BOOMS IN THE CLEARWATER RIVER; AMENDING SECTION 42-3809, IDAHO CODE, TO REMOVE CERTAIN PENALTY PROVISIONS, TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES TO ENFORCE SPECIFIED PROVISIONS OF LAW, RULES, AND REGULATIONS, AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 42-3812, IDAHO CODE, RELATING TO DIRECTOR AUTHORIZATION FOR CERTAIN ENFORCEMENT; AND AMENDING SECTION 42-4010, IDAHO CODE, TO REMOVE CERTAIN CRIMINAL PROSECUTION PROVISIONS, TO REMOVE CERTAIN PENALTY PROVISIONS, TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES TO ENFORCE SPECIFIED PROVISIONS OF LAW, RULES, AND REGULATIONS, AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 42-238, Idaho Code, be, and the same is hereby amended to read as follows:

42-238. WELL DRILLERS' LICENSES AND OPERATOR PERMITS. (1) The director of the department of water resources is hereby vested with the duties relating to the licensing of well drillers and operators of well-drilling equipment as provided for in this act so as to protect the ground water resources against waste and contamination. Qualifications for well drillers and operators of well-drilling equipment shall be adopted by rule of the water resource board.

(2) It shall be unlawful for any person to drill a well in Idaho, including wells excepted under sections 42-227 and 42-228, Idaho Code, without first complying with the provisions of this chapter. It shall be unlawful for any person to abandon a well in Idaho without first obtaining a driller's license or receiving a waiver of the license requirement from the director of the department of water resources. Authorization is required from the director prior to the abandonment and the person abandoning the well shall submit to the director a report describing the abandonment.

(3) For the purpose of this act, a "person" shall be defined as any individual who drills or abandons any well for himself or another in this state; it shall also be defined as any firm, copartnership, corporation or association which that drills or abandons, or contracts to drill or abandon, any well for hire or otherwise in this state.

(4) A driller's license shall be obtained by filing with the director an application in writing on a form provided by the director accompanied by a two hundred dollar (\$200) application fee.

(5) The director shall require that an applicant for a driller's license successfully pass a written or oral examination, and be required to submit references and other detailed information describing past drilling experience to allow the director to determine if the applicant is qualified to drill wells in the state.

(6) The water resource board shall may adopt rules for licensing and renewal of licenses of well drillers in compliance with chapter 52, title 67, Idaho Code. The board is authorized to adopt rules on professional responsibility and continuing education requirements, not to exceed twenty (20) hours during each licensing period. Notwithstanding other provisions of this chapter, the director may refuse to issue or renew a driller's license permanently or for a designated period of time if the driller has previously constructed wells improperly or constructed a well without a valid driller's license. The rules may also allow for the director to issue a license with limitations on the type, size or depth of wells the applicant is authorized to construct. A copy of the proposed rules for licensing of well drillers shall be furnished to each well driller holding a current license at the time such proposed rules are promulgated or modified. The rules shall provide for the consideration of such factors as the applicant's:

(a) Knowledge of Idaho water laws and the rules of the water resource board in connection with the drilling of wells, including proper well construction standards and procedures;

(b) Knowledge of the various types of drilling tools and their use;

(c) General knowledge of underground geology and ground water hydrology and their relation to well construction;

(d) Ownership or access to equipment capable of adequately constructing a well;

(e) Knowledge of types of well casing and their use;

(f) Knowledge of special well-drilling problems and their solution, including additional requirements for licensing for drillers who construct wells in areas of drilling concern or for the production of low temperature geothermal resources as defined in section 42-233, Idaho Code, and for the production of geothermal resources as provided in chapter 40, title 42, Idaho Code;

(g) Previous drilling experience; and

(h) History of compliance with well-drilling laws and rules.

(7) If it is determined that the applicant for a driller's license is not qualified, the director shall deny the application. If it is determined that the applicant is qualified, a license shall be issued upon the filing with the director of a surety bond or cash bond in the penal sum of not less than five thousand dollars (\$5,000), or more than twenty thousand dollars (\$20,000), as determined by the director based on the applicant's history of compliance with well-drilling laws and rules, the size and depth of the wells the applicant proposes to drill, the complexity of the wells, the resource to be recovered, the area of operation of the applicant, and other relevant factors the director determines are in the public interest. The surety or cash bond shall be conditioned upon the proper compliance with the provisions of this chapter, chapter 40, title 42, Idaho Code, and rules promulgated pursuant thereto. Such bond shall be made payable to the director.

(8) Employees of drilling firms, copartnerships, corporations or associations are authorized to operate drilling equipment for the driller after obtaining an operator's permit from the director. Such employees shall be designated as operators.

(a) A driller is responsible for adequate supervision of the operators during the construction of each well. A driller shall be responsible for the work of the operators employed by the driller.

(b) An operator shall only operate drilling equipment only for the driller listed on the operator's permit.

(c) An operator's permit shall be obtained by filing with the director an application in writing on a form provided by the director accompanied by a twenty-five dollar (\$25.00) application fee.

(d) The applicant for an operator's permit shall successfully complete a written or oral examination.

(e) The water resource board shall may adopt rules for the issuance, revocation and renewal of an operator's permit in accordance with chapter 52, title 67, Idaho Code. The board is also authorized to adopt rules on professional responsibility and continuing education requirements not to exceed twenty (20) hours during each permitting period. The rules shall consider such factors as:

(i) Knowledge of Idaho water laws and the rules of the water resource board in connection with the drilling of wells;

(ii) Demonstrated previous compliance with well-drilling laws and rules including well construction standards; and

(iii) General understanding of well-drilling equipment, well construction techniques, basic geology and map reading.

(9) Driller's licenses and operator's permits issued under this section shall expire on March 31 in the second year after issuance or upon revocation of the license by the director as provided for in this act. The driller's license can be renewed effective April 1 of every other year upon written application on forms provided by the director and the filing of a one hundred dollar (\$100) renewal fee plus a fifteen dollar (\$15.00) renewal fee for each operator employed by the licensed driller. Drillers renewing licenses in 1997 shall be assessed a licensing fee prorated monthly based upon the annual fee schedule. Thereafter, driller licenses and operator permits will be renewed upon expiration for a two (2) year period. Documents demonstrating compliance with the continuing education requirements of the rules shall be submitted to the director along with other license and permit renewal documents. The renewal request must be accompanied by a new bond or evidence that the previous bond is still in effect. The renewal may then be granted by the director if he determines that the driller or operator has complied with the rules promulgated pursuant to this act. The fees collected for the licensing of well drillers and permitting of operators are nonrefundable and shall be deposited in the water administration fund with the state treasurer with other fees collected by the director.

(10) The licensed driller and permitted operators shall have a card on hand, provided by the director to indicate that the driller or operator is presently licensed or permitted at all times when he is operating the drilling equipment. The director may also require other identification to be posted on the drilling equipment as he deems helpful in the administration of this act.

(11) Well driller's report. In order to enable a comprehensive survey of the extent and occurrence of the state's ground water resource, every well driller is hereby required to keep available for inspection at the well site a daily well log and pertinent data concerning each well, and its construction or abandonment, that is constructed or abandoned under the driller's direction in Idaho, including wells excepted under sections 42-227 and 42-228, Idaho Code, and to complete a report on forms furnished by the director. These reports shall be properly prepared and signed by the driller and deposited with the director within thirty (30) days following the completion of the well. When the driller signs the report, the driller shall attest that all information on the report is accurate to the best of the driller's knowledge and that the driller has met all minimum well construction standards, low temperature geothermal resource well construction standards, geothermal resource well construction standards and area of drilling concern standards as adopted by the water resource

board. The reports shall become a permanent record in the office of the director for hydrologic and geologic analysis and research, and shall be available for public use. The report shall include such data as the director deems necessary to provide the information that will be valuable for future reference and study.

(12) Well construction standards. The water resource board shall adopt minimum standards for new well construction, modification and abandonment of existing wells, low temperature geothermal resource well construction and geothermal well construction in this state under the provisions of chapter 52, title 67, Idaho Code. Such standards shall require each well to be so constructed as to protect the ground water of the state from waste and contamination and may include additional requirements for wells drilled in "areas of drilling concern" as designated in accordance with subsection (15) of this section. Every licensed well driller will be furnished a copy of the adopted standards by the director, and will be required to construct or abandon each well in compliance with the adopted standards.

~~(13) Penalties for violation. Drilling of a well without first obtaining a license as required in this section shall be a criminal misdemeanor, and the employees of the department of water resources are hereby empowered to issue Idaho uniform citations, as provided by the rules of the court for magistrate's division of the district court, to any person who drills a well without first obtaining the required license.~~ Violations. When the director of the department of water resources determines that any person is in substantial violation of any provision of this section or any rule, permit, condition of approval or order issued or promulgated pursuant to this section, the director may commence an administrative enforcement action by issuing a written notice of violation in accordance with the provisions of section 42-1701B, Idaho Code. Failure of the driller to comply with the provisions of section 42-238(11), Idaho Code, will allow the director to proceed to collect the necessary data on the well or wells in any manner available to him, and the cost of this data collection may be charged against the driller's bond in the amount of the expenses incurred up to the total amount of the bond.

(a) Failure of the driller to comply with the provisions of section 42-238(11), Idaho Code, is also cause for the director to revoke an active license, or refuse to renew a license, until such time as the well driller's report or reports are properly completed and on file in the office of the director. If it is found that a driller has intentionally submitted inaccurate or false information in the signed well driller's report as provided in subsection (11) of this section, or has failed to file a report within the time frame required, the driller shall be liable for a civil penalty as provided in section 42-1701B, Idaho Code. In addition, this shall be cause for the director to suspend an active license for a period not in excess of one (1) year or to not renew a license.

(b) Failure of the driller to comply with the provisions of section 42-238(12), Idaho Code, will allow the director to proceed to repair, reconstruct or abandon a well so that it complies with the adopted minimum standards of well construction and abandonment, and the costs of this work may be charged against the driller's bond in the amount of the expenses incurred up to the total amount of the bond.

(c) Failure of the driller to comply with the provisions of section 42-238(12), Idaho Code, is also cause for the director to revoke an active license or refuse to renew a license until such time as the well driller has repaired or reconstructed the well or wells so that they meet the adopted minimum standards. Any driller, well owner or well pump installer causing a well to be altered or modified so as to not meet the construction standards provided for under this section, shall be deemed to have violated the provisions of this section and shall be

subject to the enforcement provisions of section 42-1701B, Idaho Code. The director may also require that the well driller present evidence to show that he and his equipment are now capable of constructing a well in a proper manner, before the license is renewed.

(14) Appeals. Refusal to issue, refusal to renew, or revocation of a well driller's license or operator's permit by the director shall be cause for the well driller to seek a public hearing before the water resource board. No formal petition shall be required from the affected driller or operator, but a simple statement, in writing, requesting a hearing shall be sufficient. The board shall notify the driller or operator, and the director, of the date set for the hearing, which shall be at least fifteen (15) days after the notice is sent by certified mail to the well driller or operator at his address of record with the department. A certified transcript of the proceedings and the evidence received at such hearing shall be maintained by the board. The board shall affirm, modify or reject the director's decision, and make its decision in the form of an order to the director. The hearing shall be conducted in accordance with chapter 52, title 67, Idaho Code, and rules of practice and procedure adopted by the water resource board. Any party to the hearing may seek judicial review of any final order of the water resource board pursuant to chapter 52, title 67, Idaho Code.

(15) Drilling in a designated "area of drilling concern." The director of the department of water resources may designate, as he determines necessary, "areas of drilling concern" on an aquifer-by-aquifer basis within which drillers must comply with the additional requirements of this section. The director shall designate "areas of drilling concern" to protect public health and to prevent waste or contamination of ground or surface water because of factors such as aquifer pressure, vertical depth of the aquifer, warm or hot ground water, or contaminated ground or surface waters. It is unlawful for any person not meeting the requirements of this subsection to drill a well for any purpose in a designated "area of drilling concern." Any person drilling a new well or deepening or modifying an existing well for any purpose in an "area of drilling concern" as designated by the director as herein provided shall comply with the following additional requirements:

(a) Additional bonding requirements, as determined by the director, to ~~insure~~ ensure that the well is constructed or abandoned in compliance with the adopted standards for well construction.

(b) Additional experience and knowledge in drilling wells encountering warm water or pressurized aquifers as required by rules adopted by the water resource board.

(c) Document that specialized equipment needed to drill wells in "areas of drilling concern," as determined by the director, is or will be available to the driller.

(d) Provide a notice of intent to drill, deepen or modify a well; submit plans and specifications for the well and a description of the drilling methods that will be used, as required by the director; and receive the written approval of the director before commencing to drill, deepen, or modify any well in a designated "area of drilling concern."

Prior to designating an "area of drilling concern," the director shall conduct a public hearing in or near the area to determine the public interest concerning the designation. Notice of the hearing shall be published in two (2) consecutive weekly issues of a newspaper of general circulation in the area prior to the date set for hearing.

In the event an area has been designated as an "area of drilling concern" and the director of the department of water resources desires to remove such designation or modify the boundaries thereof, he shall likewise conduct a public hearing following similar publication of notice prior to taking such action.

SECTION 2. That Section 42-238b, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 42-247, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Chapter 19, Title 42, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 42-3809, Idaho Code, be, and the same is hereby amended to read as follows:

42-3809. ~~PENALTY FOR VIOLATION--- ENFORCEMENT PROCEDURE -- INJUNCTIVE RELIEF. (1) Any person who violates any of the provisions of this chapter, any regulation, rule, order or standard of the board promulgated pursuant to section 42-3803, Idaho Code, or of any order or condition of approval of the director issued pursuant thereto, where a copy of the order has been served upon said person in person or by certified mail and said person fails to comply therewith within the time therein provided, or within ten (10) days of such service if not otherwise provided, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred fifty dollars (\$150) nor more than five hundred dollars (\$500); provided further, that each day such violation of an order or condition of approval has taken place shall constitute a separate offense punishable by a fine of not less than one hundred fifty dollars (\$150) for each day until such activity is abated or voluntarily ceased. Any stream channel alteration engaged in by any person without approval having been obtained therefor as prescribed in this act is hereby declared to be a public nuisance and shall be subject to proceedings for immediate abatement.~~

~~(2) The director of the department of water resources is hereby vested with the power and authority to enforce the provisions of this chapter and rules and regulations promulgated pursuant to it. When the director of the department of water resources determines that any person is in substantial violation of any provision of this chapter or any rule, permit, certificate, condition of approval or order issued or promulgated pursuant to this chapter, the director may commence an administrative enforcement action by issuing a written notice of violation in accordance with the provisions of section 42-1701B, Idaho Code. Provided however, that no civil or administrative proceeding may be brought to recover for a violation of any provision of this chapter or a violation of any rule, permit or order issued or promulgated pursuant to this chapter, more than two (2) years after the director had knowledge or ought reasonably to have had knowledge of the violation. The director shall have authority and it shall be his duty to seek a temporary injunction from the appropriate district court to restrain a person from altering a stream channel until approval therefor has been obtained by the person as provided in this act.~~

SECTION 6. That Section 42-3812, Idaho Code, be, and the same is hereby repealed.

SECTION 7. That Section 42-4010, Idaho Code, be, and the same is hereby amended to read as follows:

42-4010. POWERS AND DUTIES -- PENALTIES -- ENFORCEMENT PROCEDURE. (a) The water resource board may adopt, amend, or rescind reasonable rules, regulations, and construction standards necessary to the administration of this chapter in accordance with chapter 52, title 67, Idaho Code.

(b) The board may require that owners or operators of wells or injection wells keep or cause to be kept well logs, core records, and drilling histories of such wells or injection wells. It may require that copies of such

logs, records, and/or histories be filed with the director within a reasonable time after well completion. It may further require such other geologic, geochemical, or engineering plans, reports, or records as necessary for the administration of this chapter. Any reports, logs, records, or histories filed with the director shall be available for public inspection subject to disclosure according to chapter 1, title 74, Idaho Code, and shall be kept as confidential by the director for a period of one (1) year from well completion, provided however, that the director may use any such reports, logs, records, or histories in any action in any court to enforce the provisions of this chapter or any order or regulation adopted hereunder.

(c) The director may enter onto private land at any time to inspect any well or geothermal resource development project to determine if such well or project is being constructed, operated, or maintained according to any applicable permits or to determine if the construction, operation, or maintenance of such well or project may involve a threat to life or property or an unreasonable risk to subsurface, surface, or atmospheric resources.

(d) If the director finds that any person is constructing, operating or maintaining any well or injection well not in accordance with any applicable permit or in a fashion so as to involve an unreasonable risk of, or so as to cause, damage to life or property or subsurface, surface, or atmospheric resources, the director may issue an order to such person to correct or to stop such practices as are found to be improper and to mitigate any injury of any sort caused by such practices.

(e) The director may enforce any provision of this chapter or any order or regulation issued or adopted pursuant hereto by an appropriate action in the district court. The director may bring an action in the district court to have enjoined any threatened noncompliance with any provision of this chapter, regulations, or orders of the director, or any threatened harm to life, property, or surface, subsurface, or atmospheric resources which that would be caused by such noncompliance. It shall be the duty of the attorney general to institute and prosecute civil enforcement actions or injunctive actions as provided in this chapter, ~~and to prosecute actions or proceedings for the enforcement of any criminal provisions of this chapter. The attorney general may delegate the authority and duty under this section to prosecute criminal actions to the prosecuting attorney of the county in which such a criminal action may arise.~~

(f) ~~Any willful violation of or failure to comply with any provision of this chapter, or regulation adopted or order issued pursuant to the chapter, shall be a misdemeanor punishable by a fine of up to ten thousand dollars (\$10,000) for each offense or a sentence of up to six (6) months in a county jail or both; each day of a continuing violation shall be a separate offense under this subdivision.~~ The director of the department of water resources is hereby vested with the power and authority to enforce the provisions of chapter 40, title 42, Idaho Code, and rules and regulations promulgated pursuant to it. When the director of the department of water resources determines that any person is in substantial violation of any provision of this chapter or any rule, permit, certificate, condition of approval or order issued or promulgated pursuant to this chapter, the director may commence an administrative enforcement action by issuing a written notice of violation in accordance with the provisions of section 42-1701B, Idaho Code. A responsible or principal executive officer of any corporate person may be liable under this ~~subdivision~~ subsection if such corporate person is not in compliance with any provision of this chapter or with any valid order or regulation adopted pursuant hereto.

(g) The director shall undertake such studies, investigations, or research programs as necessary for the proper administration of this chapter and in order to develop experience in and understanding of the entire field of geothermal resource exploration and development in both its technical and regulatory aspects. The director and board shall cooperate with other Idaho

state agencies, the state institutions of higher learning, agencies of other states, and agencies of the federal government in the preparation of such investigations, studies, or research projects. The director and board may cooperate with the scientists at the Idaho national engineering laboratory in their research, development, engineering and demonstration of geothermal projects.

(h) The director may enter into cooperative agreements and memoranda of understanding with agencies of other states for the purpose of the administration of geothermal areas which that are partially in Idaho and partially in one (1) or more other states.

Approved March 17, 2021

CHAPTER 66
(H.B. No. 75)

AN ACT

RELATING TO CLAIMS FOR WAGES; AMENDING SECTION 45-617, IDAHO CODE, TO REVISE PROVISIONS REGARDING WAGE CLAIMS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 45-617, Idaho Code, be, and the same is hereby amended to read as follows:

45-617. ADMINISTRATIVE PROCEEDINGS FOR WAGE CLAIMS. (1) Wage claims filed with the department, excluding potential penalties, are limited by the same dollar amount that limits actions before the small claims department of the magistrate's division of the district court.

(2) The contested case provisions of the Idaho administrative procedures act, chapter 52, title 67, Idaho Code, are inapplicable to proceedings involving wage claims under this chapter.

(3) Once a wage claim has been properly filed with the department, the provisions of this section shall provide the exclusive remedy for resolving the wage claim. If at any time after the filing of the wage claim the department determines that it lacks jurisdiction over the wage claim, the department shall provide written notification of its determination to the claimant and the employer. The claimant may then assert the wage claim in any court of competent jurisdiction. In the event the department determines that it lacks jurisdiction over the wage claim, the limitation periods provided for in section 45-614, Idaho Code, shall be tolled from the date the wage claim was filed with the department until the date notice that the department lacks jurisdiction is mailed to the claimant, as provided in subsection (5) of this section.

(4) A department compliance officer shall examine wage claims filed with the department and, on the basis of the facts found, shall determine whether the wage claimant is entitled to an award for unpaid wages and penalties. If the compliance officer is unable to determine whether wages and penalties are owed, the claim may be referred to a hearing officer for a determination. The department may adjust the amount of penalties awarded for an employer's failure to comply with the requirements of section 45-606, Idaho Code. The department may award no penalty, or may award a penalty in any amount up to the maximum amount allowed under section 45-607, Idaho Code. No penalty shall be awarded by the department unless a specific finding is made that wages were withheld willfully, arbitrarily and without just cause. The department's determination shall include findings of fact and conclusions of law. Before the determination becomes final or an appeal is filed, the compliance or hearing officer that issued the determination may,

on ~~their~~ his own motion, issue a revised determination. The determination or revised determination shall become a final determination unless, within fourteen (14) days after notice, as provided in subsection (5) of this section, an appeal is filed by the claimant or the employer in accordance with the department's rules. If an appeal is not timely filed, the amount awarded by a final determination shall become immediately due and payable to the department. A final determination may be enforced by the department in accordance with section 45-618, Idaho Code.

(5) The claimant and the employer shall be entitled to prompt service of notice of determinations and decisions. ~~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. Notice shall be deemed served if delivered to the person being served, if mailed to the person's last known address, or if electronically transmitted to the claimant at the claimant's request and with the department's approval. Service by electronic transmission shall be deemed complete on the date notice is electronically transmitted.~~ The date indicated on department determinations or decisions as the "date of service" or "date of mailing" shall be presumed to be the date ~~the document was deposited in the United States mail,~~ of service unless otherwise shown by a preponderance of competent evidence.

(6) An appeal from a wage claim determination shall be in writing, signed by the appellant or the appellant's representative and shall contain words that, by fair interpretation, request the appeal process for a specific determination of the department. The appeal may be filed by personal delivery, by mail, by electronic transmission, or by fax to the wage and hour section of the department at the address indicated on the wage claim determination. The date of personal delivery shall be noted on the appeal and shall be deemed the date of filing. If mailed, the appeal shall be deemed to be filed on the date of mailing as determined by the postmark. ~~A faxed or electronically transmitted appeal that is shall be deemed filed on the date received by the wage and hour section by 5:00 p.m. on a business day shall be deemed filed on that date. A faxed or electronically transmitted appeal that is received by the wage and hour section on a weekend, or holiday or after 5:00 p.m. on a business day shall be deemed filed on the next business day.~~

(7) To hear and decide appeals from determinations, the director shall appoint appeals examiners who have been specifically trained to hear wage claims. Unless the appeal is withdrawn, the appeals examiner shall affirm, modify, set aside or reverse the determination involved, after affording the claimant and the employer reasonable opportunity for a fair hearing, or may refer a matter back to the compliance or hearing officer for further action. The appeals examiner shall notify the claimant and the employer 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 the claimant, the employer, 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 wage claim. All testimony at any hearing shall be recorded. Witnesses subpoenaed by the appeals examiner shall be allowed fees at a rate prescribed by the director. If the claimant or the employer 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 the claimant or the employer, within fourteen (14) days after service of the decision of the appeals examiner, seeks judicial review pursuant to section 45-619, Idaho Code, or unless an application or motion is made for a rehearing of such decision, the decision of the appeals examiner shall become final and the amount

awarded by the decision shall become immediately due and payable to the department. A decision that has become final may be enforced by the department according to section 45-618, Idaho Code.

(8) No person acting on behalf of the director shall participate in any case in which he has a direct or indirect personal interest.

(9) (a) Any right, fact, or matter in issue, directly based upon or necessarily involved in a determination or decision of the appeals examiner which that has become final, shall be conclusive for all the purposes of this chapter as between the claimant and the employer who had notice of such determination or decision. Subject to judicial review as set forth in this chapter, any determination or decision 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 determination or decision rendered pursuant to this chapter by an appeals examiner, 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 wage claims; or
- (iii) To challenge the constitutionality of provisions of this chapter or administrative proceedings under this chapter.

Approved March 17, 2021

CHAPTER 67
(H.B. No. 80)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-515, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING RECIPROCAL JURISDICTIONS; AND AMENDING CHAPTER 5, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-515A, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING CREDIT FOR REINSURANCE PROCEDURES.

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

SECTION 1. That Section 41-515, Idaho Code, be, and the same is hereby amended to read as follows:

41-515. CREDIT FOR REINSURANCE. (1) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a reduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of paragraph (a), (b), (c), (d), (e), ~~or (f)~~, or (g) of subsection (2) of this section and the requirements of section 41-515A, Idaho Code; provided further, that the director may adopt by rule pursuant to subsection (5) (a) of this section specific additional requirements relating to or setting forth:

- (a) The valuation of assets or reserve credits;
- (b) The amount and forms of security supporting reinsurance arrangements described in subsection (5) (a) of this section; and
- (c) The circumstances pursuant to which credit will be reduced or eliminated.

(2) Credit shall be allowed under paragraph (a), (b), or (c) of this subsection only, as respects cessions of those kinds or classes of business which the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a United States branch of an alien assuming insurer, in the state through which it is entered and licensed

to transact insurance or reinsurance. Credit shall be allowed under paragraph (c) or (d) of this subsection only if the applicable requirements of paragraph (gh) of this subsection have been satisfied.

(a) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this state.

(b) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is accredited by the director as a reinsurer in this state.

In order to be eligible for accreditation, a reinsurer must:

(i) File with the director evidence of its submission to this state's jurisdiction;

(ii) Submit to this state's authority to examine its books and records;

(iii) Be licensed to transact insurance or reinsurance in at least one (1) state or, in the case of a United States branch of an alien assuming insurer, be entered through and licensed to transact insurance or reinsurance in at least one (1) state;

(iv) File annually with the director a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement; and

(v) Demonstrate to the satisfaction of the director that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer is deemed to meet this requirement as of the time of its application if it maintains a surplus as regards policyholders in an amount not less than twenty million dollars (\$20,000,000) and its accreditation has not been denied by the director within ninety (90) days after submission of its application.

(c) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is domiciled in, or in the case of a United States branch of an alien assuming insurer is entered through, a state that employs standards regarding credit for reinsurance substantially similar to those applicable under this statute and the assuming insurer or United States branch of an alien assuming insurer:

(i) Maintains a surplus as regards policyholders in an amount not less than twenty million dollars (\$20,000,000); and

(ii) Submits to the authority of this state to examine its books and records.

The requirement of subparagraph (i) of this paragraph does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

(d) (i) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in subsection (4) (b) of this section for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the director information substantially the same as that required to be reported on the national association of insurance commissioners (NAIC) annual statement form by licensed insurers to enable the director to determine the sufficiency of the trust fund. The assuming insurer shall submit to examination of its books and records by the director and bear the expense of examination.

(ii) Credit for reinsurance shall not be granted under this paragraph, unless the form of the trust and any amendments to the trust have been approved by:

1. The director of the state where the trust is domiciled; or

2. The director of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

The form of the trust and any trust amendments also shall be filed with the director of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in its trustees for the benefit of the assuming insurer's United States ceding insurers, their assigns and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the director. The trust shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. No later than February 28 of each year, the trustees of the trust shall report to the director in writing the balance of the trust and listing the trust's investments at the preceding year-end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

(iii) The following requirements apply to the following categories of assuming insurer:

1. The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers and, in addition, the assuming insurer shall maintain a trustee surplus of not less than twenty million dollars (\$20,000,000), except as provided in subparagraph (iii)2. of this paragraph.

2. At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three (3) full years, the director with principal regulatory oversight of the trust may authorize a reduction in the required trustee surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors including, when applicable, the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trustee surplus may not be reduced to an amount less than thirty percent (30%) of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.

3. In the case of a group that includes incorporated and individual unincorporated underwriters:

- (A) For reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after January 1, 1993, the trust shall consist of a trustee account in an amount not less than the respective underwriters' several liabilities attributable to business ceded by United States domiciled ceding insurers to any underwriter of the group;

(B) For reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, the trust shall consist of a trustee account in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States; and

(C) In addition to these trusts, the group shall maintain in trust a trustee surplus of which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of United States ceding insurers of any member of the group for all years of the account.

The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members. Within ninety (90) days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the director an annual certification by the group's domiciliary regulator of the solvency of each underwriter member; or if certification is unavailable, financial statements prepared by independent public accountants of each underwriter member of the group.

(iv) In the case of a group of incorporated underwriters under common administration, the group shall:

1. Have continuously transacted an insurance business outside the United States for at least three (3) years immediately prior to making application for accreditation;
2. Maintain aggregate policyholders' surplus of ten billion dollars (\$10,000,000,000);
3. Maintain a trust fund in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of the group;
4. Maintain a joint trustee surplus of which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of United States domiciled ceding insurers of any member of the group as additional security for these liabilities; and
5. Within ninety (90) days after its financial statements are due to be filed with the group's domiciliary regulator, make available to the director an annual certification of each underwriter member's solvency by the member's domiciliary regulator and financial statements of each underwriter member of the group prepared by its independent public accountant.

(e) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that has been certified by the director as a reinsurer in this state and has secured its obligations in accordance with the following requirements:

(i) In order to be eligible for certification, the assuming insurer must:

1. Be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the director pursuant to subparagraph (iii) of this paragraph;
2. Maintain minimum capital and surplus, or the equivalent, in an amount to be determined by the director pursuant to in

accordance with section 41-515A, Idaho Code, or applicable rule;

3. Maintain financial strength ratings from two (2) or more rating agencies deemed acceptable by the director pursuant ~~to~~ in accordance with section 41-515A, Idaho Code, or applicable rule;

4. Agree to submit to the jurisdiction of this state, appoint the director as its agent for service of process in this state and agree to provide security for one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists enforcement of a final United States judgment;

5. Agree to meet applicable information filing requirements as determined by the director, both with respect to an initial application for certification and on an ongoing basis; and

6. Satisfy any other requirements for certification deemed relevant by the director.

(ii) An association including incorporated and individual unincorporated underwriters may be a certified reinsurer. In order to be eligible for certification, in addition to satisfying the requirements of subparagraph (i) of this paragraph:

1. The association shall satisfy its minimum capital and surplus requirements through the capital and surplus equivalents (net of liabilities) of the association and its members, which shall include a joint central fund that may be applied to any unsatisfied obligation of the association or any of its members, in an amount determined by the director to provide adequate protection;

2. The incorporated members of the association shall not be engaged in any business other than underwriting as a member of the association and shall be subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members; and

3. Within ninety (90) days after its financial statements are due to be filed with the association's domiciliary regulator, the association shall provide to the director an annual certification by the association's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the association.

(iii) The director shall create and publish a list of qualified jurisdictions under which an assuming insurer licensed and domiciled in such jurisdiction is eligible to be considered for certification by the director as a certified reinsurer.

1. In order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the director shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States. A qualified jurisdiction must agree to share information and cooperate with the director with respect to all certified reinsurers domiciled within that jurisdiction. A jurisdiction may not

be recognized as a qualified jurisdiction if the director has determined that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards. Additional factors may be considered in the discretion of the director.

2. A list of qualified jurisdictions shall be published through the NAIC committee process. The director shall consider this list in determining qualified jurisdictions. If the director approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the director shall provide thoroughly documented justification in accordance with criteria to be developed under rulemaking in section 41-515A, Idaho Code, or applicable rule.

3. United States jurisdictions that meet the requirement for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.

4. If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the director has the discretion to suspend the reinsurer's certification indefinitely, in lieu of revocation.

(iv) The director shall assign a rating to each certified reinsurer, giving due consideration to the financial strength ratings that have been assigned by rating agencies deemed acceptable to the director pursuant to rulemaking in accordance with section 41-515A, Idaho Code, or applicable rule. The director shall publish a list of all certified reinsurers and their ratings.

(v) A certified reinsurer shall secure obligations assumed from United States ceding insurers under this subsection at a level consistent with its rating, as specified in rulemaking under section 41-515A, Idaho Code, or rule as promulgated by the director.

1. In order for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the director and consistent with the provisions of subsection (3) of this section, or in a multibeneficiary trust in accordance with paragraph (d) of this subsection, except as otherwise provided in this paragraph.

2. If a certified reinsurer maintains a trust to fully secure its obligations subject to paragraph (d) of this subsection and chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this paragraph or comparable laws of other United States jurisdictions and for its obligations subject to paragraph (d) of this subsection. It shall be a condition to the grant of certification under this paragraph that the certified reinsurer shall have bound itself by the language of the trust and agreement with the director with principal regulatory oversight of each such trust account to fund, upon termination of any such trust account, out of the remaining surplus of such trust, any deficiency of any other such trust account.

3. The minimum trusteed surplus requirements provided in paragraph (d) of this subsection are not applicable with respect to a multibeneficiary trust maintained by a cer-

tified reinsurer for the purpose of securing obligations incurred under this paragraph, except that such trust shall maintain a minimum trusted surplus of ten million dollars (\$10,000,000).

4. With respect to obligations incurred by a certified reinsurer under this subparagraph, if the security is insufficient, the director shall reduce the allowable credit by an amount proportionate to the deficiency and has the discretion to impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

5. For purposes of this subparagraph, a certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure one hundred percent (100%) of its obligations. As used here, the term "terminated" refers to revocation, suspension, voluntary surrender and inactive status. If the director continues to assign a higher rating as permitted by other provisions of this section, this requirement does not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended.

(vi) If an applicant for certification has been certified as a reinsurer in an NAIC-accredited jurisdiction, the director has the discretion to defer to that jurisdiction's certification and has the discretion to defer to the rating assigned by that jurisdiction, and such assuming insurer shall be considered to be a certified reinsurer in this state.

(vii) A certified reinsurer that ceases to assume new business in this state may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of subparagraph (v) of this paragraph, and the director shall assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.

(f) (i) Credit shall be allowed when the reinsurance is ceded to an assuming insurer meeting each of the conditions set forth in this paragraph.

1. The assuming insurer must have its head office or be domiciled in, as applicable, and be licensed in a reciprocal jurisdiction. "Reciprocal jurisdiction" means a jurisdiction that meets one (1) of the following:

(A) A non-United States jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and the European Union, is a member state of the European Union. For purposes of this subsection, a "covered agreement" means an agreement entered into pursuant to the Dodd-Frank Wall Street reform and consumer protection act, 31 U.S.C. 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral minimums as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance;

(B) A United States jurisdiction that meets accreditation under the NAIC financial standards and accreditation program; or

(C) A qualified jurisdiction, as determined by the director pursuant to paragraph (e) (iii) of this subsection, that is not otherwise described in 1. (A) or 1. (B) of this subparagraph and that meets certain additional requirements, consistent with the terms and conditions of in-force covered agreements, as specified in section 41-515A, Idaho Code, or rule as promulgated by the director.

2. The assuming insurer must have and maintain, on an ongoing basis, minimum capital and surplus, or its equivalent, calculated according to the methodology of its domiciliary jurisdiction, in an amount to be set forth in accordance with section 41-515A, Idaho Code, or applicable rule. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must have and maintain, on an ongoing basis, minimum capital and surplus equivalents (net of liabilities), calculated according to the methodology applicable in its domiciliary jurisdiction, and a central fund containing a balance in amounts to be set forth in accordance with section 41-515A, Idaho Code, or applicable rule.

3. The assuming insurer must have and maintain, on an ongoing basis, a minimum solvency or capital ratio, as applicable, which will be set forth in accordance with section 41-515A, Idaho Code, or applicable rule. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must have and maintain, on an ongoing basis, a minimum solvency or capital ratio in the reciprocal jurisdiction where the assuming insurer has its head office or is domiciled, as applicable, and is also licensed.

4. The assuming insurer must agree and provide adequate assurance to the director, in a form specified by the director pursuant to section 41-515A, Idaho Code, or applicable rule, as follows:

(A) The assuming insurer must provide prompt written notice and explanation to the director if it falls below the minimum requirements set forth in paragraph (f) (i) 2. or 3. of this subsection or if any regulatory action is taken against it for serious noncompliance with applicable law;

(B) The assuming insurer must consent in writing to the jurisdiction of the courts of this state and to the appointment of the director as agent for service of process. The director may require that consent for service of process be provided to the director and included in each reinsurance agreement. Nothing in this provision shall limit, or in any way alter, the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws;

(C) The assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer or its legal successor,

that have been declared enforceable in the jurisdiction where the judgment was obtained;

(D) Each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its resolution estate; and

(E) The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement that involves this state's ceding insurers, and agree to notify the ceding insurer and the director and to provide security in an amount equal to one hundred percent (100%) of the assuming insurer's liabilities to the ceding insurer, should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of subsection (2) (e) and subsection (3) of this section and as specified in section 41-515A, Idaho Code, or by the director in rule.

5. The assuming insurer or its legal successor must provide, if requested by the director, on behalf of itself and any legal predecessors, certain documentation to the director, as specified in section 41-515A, Idaho Code, or by the director in rule.

6. The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements pursuant to criteria set forth in section 41-515A, Idaho Code, or by the director in rule.

7. The assuming insurer's supervisory authority must confirm to the director on an annual basis, as of the preceding December 31 or at the annual date otherwise statutorily reported to the reciprocal jurisdiction, that the assuming insurer complies with the requirements set forth in paragraph (f) (i) 2. and 3. of this subsection.

8. Nothing in this provision precludes an assuming insurer from providing the director with information on a voluntary basis.

(ii) The director shall timely create and publish a list of reciprocal jurisdictions.

1. A list of reciprocal jurisdictions is published through the NAIC committee process. The director's list shall include any reciprocal jurisdiction as defined under subparagraph (i) 1. (A) or (B) of this paragraph and shall consider any other reciprocal jurisdiction included on the NAIC list. The director may approve a jurisdiction that does not appear on the NAIC list of reciprocal jurisdictions in accordance with criteria to be developed under section 41-515A, Idaho Code, or rules issued by the director.

2. The director may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets the requirements of a reciprocal jurisdiction in accordance with section 41-515A, Idaho Code, or rules issued by the director, except that the direc-

tor shall not remove from the list a reciprocal jurisdiction as defined under subparagraph (i)1.(A) or (B) of this paragraph. Upon removal of a reciprocal jurisdiction from this list, credit for reinsurance ceded to an assuming insurer that has its home office or is domiciled in that jurisdiction shall be allowed, if otherwise allowed pursuant to this section.

(iii) The director shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this subsection and to which cessions shall be granted credit in accordance with this subsection. The director may add an assuming insurer to such list if an NAIC-accredited jurisdiction has added such assuming insurer to a list of such assuming insurers or if, upon initial eligibility, the assuming insurer submits the information to the director as required under subparagraph (i)4. of this paragraph and complies with any additional requirements as provided by law or that the director may impose by rule, except to the extent that they conflict with an applicable covered agreement.

(iv) If the director determines that an assuming insurer no longer meets one (1) or more of the requirements under this subsection, the director may revoke or suspend the eligibility of the assuming insurer for recognition under this subsection in accordance with procedures as provided by law or set forth in rule.

1. While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended, or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured in accordance with subsection (3) of this section.

2. If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the director and consistent with the provisions of subsection (3) of this section.

(v) If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer or its representative may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order that the assuming insurer post security for all outstanding ceded liabilities.

(vi) Nothing in this subsection shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree on requirements for security or other terms in that reinsurance agreement, except as expressly prohibited by this section or other applicable law or rule.

(vii) Credit may be taken under this subsection only for reinsurance agreements entered into, amended, or renewed on or after July 1, 2021, and only with respect to losses incurred and reserves reported on or after the later of: the date on which the assuming insurer has met all eligibility requirements pursuant to subparagraph (i) of this paragraph and the effective date of the new reinsurance agreement, amendment, or renewal.

1. This paragraph does not alter or impair a ceding insurer's right to take credit for reinsurance, to the extent

that credit is not available under this subsection, as long as the reinsurance qualifies for credit under any other applicable provision of this section.

2. Nothing in this subsection shall authorize an assuming insurer to withdraw or reduce the security provided under any reinsurance agreement except as permitted by the terms of the agreement.

3. Nothing in this subsection shall limit, or in any way alter, the capacity of parties to any reinsurance agreement to renegotiate the agreement.

(g) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of paragraph (a), (b), (c), (d), ~~or~~ (e), or (f) of this subsection, but only with respect to the insurance of risks located in jurisdictions where such reinsurance is required by applicable law or regulation of that jurisdiction.

(gh) If the assuming insurer is not licensed, accredited or certified to transact insurance or reinsurance in this state, the credit permitted in paragraphs (c) and (d) of this subsection shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(i) That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or of any appellate court in the event of an appeal; and

(ii) To designate the director or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the ceding company.

This provision is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if such an obligation is created in the agreement.

(hi) If the assuming insurer does not meet the requirements of paragraph (a), (b), (c), or (ef) of this subsection, the credit permitted by paragraph (d) or (e) of this subsection shall not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

(i) If the trust fund is inadequate because it contains an amount less than the amount required by paragraph (d) (iii) of this subsection, or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the director with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the director with regulatory oversight all of the assets of the trust fund.

(ii) The assets shall be distributed by, and claims shall be filed with and valued by, the director with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies.

(iii) If the director with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets or part thereof shall be returned by the director with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

(iv) The grantor shall waive any right otherwise available to it under United States law that is inconsistent with this provision.

(ij) If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the director may suspend or revoke the reinsurer's accreditation or certification.

(i) The director must give the reinsurer notice and opportunity for hearing. The suspension or revocation may not take effect until after the director's order on hearing, unless:

1. The reinsurer waives its right to hearing;
2. The director's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer under paragraph (e) (vi) of this subsection; or
3. The director finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the director's order.

(ii) While a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the suspension qualifies for credit, except to the extent that the reinsurer's obligations under the contract are secured in accordance with subsection (3) of this section. If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted after the effective date of the revocation, except to the extent that the reinsurer's obligations under the contract are secured in accordance with paragraph (e) (v) of this subsection or with subsection (3) of this section.

(jk) The following provisions apply regarding the concentration of risk:

(i) A ceding insurer shall take steps to manage its reinsurance recoverables proportionate to its own book of business. A domestic ceding insurer shall notify the director within thirty (30) days after reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, exceeds fifty percent (50%) of the domestic ceding insurer's last reported surplus to policyholders, or after it is determined that reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(ii) A ceding insurer shall take steps to diversify its reinsurance program. A domestic ceding insurer shall notify the director within thirty (30) days after ceding to any single assuming insurer, or group of affiliated assuming insurers, more than twenty percent (20%) of the ceding insurer's gross written premium in the prior calendar year, or after it has determined that the reinsurance ceded to any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(3) An asset or a reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements in subsection (2) of this section shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer; provided further, that the director may adopt by rule pursuant to subsection (5) (a) of this section specific additional requirements relating to or setting forth the valuation of assets or reserve credits, the amount and forms of security supporting reinsurance arrangements described in subsection (5) (a) of this section, and the

circumstances pursuant to which credit will be reduced or eliminated. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations thereunder, if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United States financial institution as defined in subsection (4) (b) of this section. This security may be in the form of:

(a) Cash;

(b) Securities listed by the securities valuation office of the NAIC, including those deemed exempt from filing as defined by the purposes and procedures manual of the securities valuation office, and qualifying as admitted assets;

(c) Clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified United States financial institution as defined in subsection (4) (a) of this section no later than December 31 of the year for which the filing is being made, and in the possession of, or in trust for, the ceding company on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs; or

(d) Any other form of security acceptable to the director.

(4) (a) For purposes of subsection (3) (c) of this section a "qualified United States financial institution" means an institution that:

(i) Is organized or (in the case of a United States office of a foreign banking organization) licensed, under the laws of the United States or any state thereof;

(ii) Is regulated, supervised and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and

(iii) Has been determined by either the director or the securities valuation office of the NAIC, to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the director.

(b) A "qualified United States financial institution" means, for purposes of the provisions of this statute specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:

(i) Is an organization, or (in the case of a United States branch or agency office of a foreign banking organization) licensed, under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers; and

(ii) Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.

(5) The director may adopt rules implementing the provisions of this chapter.

(a) The director is further authorized to adopt rules applicable to reinsurance arrangements described in subparagraph (i) of this paragraph.

(i) A rule adopted pursuant to this subparagraph may apply only to reinsurance relating to: life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits; universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period; variable annuities with guaranteed death or living benefits; long-term care insurance policies; or such other life and health insurance and annuity products as to which the NAIC adopts model regulatory requirements with respect to credit for reinsurance.

(ii) A rule adopted pursuant to subparagraph (i) of this paragraph concerning life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits or universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period may apply to any treaty containing policies issued on or after January 1, 2015, and policies issued prior to January 1, 2015, if risk pertaining to such pre-2015 policies is ceded in connection with the treaty, in whole or in part, on or after January 1, 2015.

(iii) A rule adopted pursuant to this paragraph may require the ceding insurer, in calculating the amounts or forms of security required to be held under rules promulgated under this authority, to use the valuation manual referenced in section 41-612, Idaho Code.

(iv) A rule adopted pursuant to this paragraph shall not apply to cessions to an assuming insurer that:

1. Meets the conditions set forth in subsection (2) (f) of this section in this state or, if this state has not adopted provisions substantially equivalent to subsection (2) (f) of this section, the assuming insurer is operating in accordance with provisions substantially equivalent to subsection (2) (f) of this section in a minimum of five (5) other states;

2. Is certified in this state or, if this state has not adopted provisions substantially equivalent to subsection (2) (e) of this section, certified in a minimum of five (5) other states; or

23. Maintains at least two hundred fifty million dollars (\$250,000,000) in capital and surplus when determined in accordance with the NAIC accounting practices and procedures manual, referenced in section 41-335, Idaho Code, and is:

(A) Licensed in at least twenty-six (26) states; or

(B) Licensed in at least ten (10) states, and licensed or accredited in a total of at least thirty-five (35) states.

(b) The authority to adopt rules pursuant to paragraph (a) of this subsection does not limit the director's general authority to adopt rules pursuant to this subsection.

(6) The provisions of this section shall apply to all cessions after the effective date of this act under reinsurance agreements that have had an inception, anniversary, or renewal date not less than six (6) months after the effective date of this act.

SECTION 2. That Chapter 5, 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 41-515A, Idaho Code, and to read as follows:

41-515A. CREDIT FOR REINSURANCE PROCEDURES. (1) The purpose of this section is to set forth procedural requirements that the director deems necessary to carry out section 41-515, Idaho Code. The actions and information required under this section are declared to be in the public interest and for the protection of the ceding insurers in this state.

(2) Reinsurer licensed in this state. Pursuant to section 41-515(2) (a), Idaho Code, the director shall allow credit for reinsurance ceded by a domestic insurer to assuming insurers that were licensed in this state as of any date on which statutory financial statement credit for reinsurance is claimed.

(3) Accredited reinsurers.

(a) Pursuant to section 41-515(2) (b), Idaho Code, the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that is accredited as a reinsurer in this state as of the date on which statutory financial statement credit for reinsurance is claimed. An accredited reinsurer must:

(i) File a properly executed form AR-1 as evidence of its submission to this state's jurisdiction and to this state's authority to examine its books and records;

(ii) File with the director a certified copy of a certificate of authority or other acceptable evidence that it is licensed to transact insurance or reinsurance in at least one (1) state or, in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one (1) state;

(iii) File annually with the director a copy of its annual statement filed with the department of its state of domicile or, in the case of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance, and a copy of its most recent audited financial statement; and

(iv) Maintain a surplus as regards policyholders in an amount not less than twenty million dollars (\$20,000,000), or obtain the affirmative approval of the director upon a finding that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers.

(b) If the director determines that the assuming insurer has failed to meet or maintain any of these qualifications, the director may upon written notice and opportunity for hearing suspend or revoke the accreditation. Credit shall not be allowed a domestic ceding insurer under this section if the assuming insurer's accreditation has been denied or revoked by the director or if the reinsurance was ceded while the assuming insurer's accreditation was under suspension by the director after notice and hearing.

(4) Reinsurer domiciled in another state.

(a) Pursuant to section 41-515(2) (c), Idaho Code, the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer, that as of any date on which statutory financial statement credit for reinsurance is claimed:

(i) Is domiciled and licensed in or, in the case of a United States branch of an alien assuming insurer, is entered through a state that employs standards regarding credit for reinsurance substantially similar to those applicable under section 41-515, Idaho Code, and this section;

- (ii) Maintains a surplus as regards policyholders in an amount not less than twenty million dollars (\$20,000,000); and
- (iii) Files a properly executed form AR-1 with the director as evidence of its submission to this state's authority to examine its books and records.

(b) The provisions of this section relating to surplus as regards policyholders shall not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system. As used in this section, "substantially similar" standards means credit for reinsurance standards that the director determines equal or exceed the standards of section 41-515, Idaho Code, and this section.

(5) Reinsurers maintaining trust funds.

(a) Pursuant to section 41-515(2)(d), Idaho Code, the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that, as of any date on which statutory financial statement credit for reinsurance is claimed, and thereafter for as long as credit for reinsurance is claimed, maintains a trust fund in an amount prescribed in this subsection in a qualified United States financial institution as defined in section 41-515(4)(b), Idaho Code, for the payment of the valid claims of its United States-domiciled ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the director substantially the same information as required to be reported on the NAIC annual statement form by licensed insurers, to enable the director to determine the sufficiency of the trust fund.

(b) The following requirements apply to the following categories of assuming insurer:

(i) The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States-domiciled insurers, and, in addition, the assuming insurer shall maintain a trusteed surplus of not less than twenty million dollars (\$20,000,000), except as provided in subparagraph (ii) of this paragraph.

(ii) At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three (3) full years, the director or commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trusteed surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trusteed surplus may not be reduced to an amount less than thirty percent (30%) of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.

(iii) The trust fund for a group including incorporated and individual unincorporated underwriters shall consist of:

1. For reinsurance ceded under reinsurance agreements with an inception, amendment, or renewal date on or after January 1, 1993, funds in trust in an amount not less than the respective underwriters' several liabilities attributable

to business ceded by United States-domiciled ceding insurers to any underwriter of the group;

2. For reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this section, funds in trust in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States; and

3. In addition to these trusts, the group shall maintain a trusted surplus of which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of the United States-domiciled ceding insurers of any member of the group for all the years of account.

(iv) The incorporated members of the group within the scope of subparagraph (iii) of this paragraph shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members. The group shall, within ninety (90) days after its financial statements are due to be filed with the group's domiciliary regulator, provide to the director:

1. An annual certification by the group's domiciliary regulator of the solvency of each underwriter member of the group; or

2. If a certification is unavailable, a financial statement, prepared by independent public accountants, of each underwriter member of the group.

(v) The trust fund for a group of incorporated insurers under common administration, whose members possess aggregate policyholders surplus of ten billion dollars (\$10,000,000,000), calculated and reported in substantially the same manner as prescribed by the annual statement instructions and accounting practices and procedures manual of the NAIC, and which has continuously transacted an insurance business outside the United States for at least three (3) years immediately prior to making application for accreditation, shall:

1. Consist of funds in trust in an amount not less than the assuming insurers' several liabilities attributable to business ceded by United States-domiciled ceding insurers to any members of the group pursuant to reinsurance contracts issued in the name of such group;

2. Maintain a joint trusted surplus of which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of United States-domiciled ceding insurers of any member of the group; and

3. File a properly executed form AR-1 as evidence of the submission to the department's authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination.

(vi) Within ninety (90) days after the statements are due to be filed with the group's domiciliary regulator, the group shall file with the director an annual certification of each underwriter member's solvency by the member's domiciliary regulators and financial statements prepared by independent public accountants of each underwriter member of the group.

(c) (i) Credit for reinsurance shall not be granted unless the form of the trust and any amendments to the trust have been approved by

either the director or commissioner of the state where the trust is domiciled or the director or commissioner of another state who, pursuant to the terms of the trust instrument, has accepted responsibility for regulatory oversight of the trust. The form of the trust and any trust amendments also shall be filed with the director and commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that:

1. Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied thirty (30) days after entry of the final order of any court of competent jurisdiction in the United States;
2. Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's United States ceding insurers, their assigns and successors in interest;
3. The trust shall be subject to examination as determined by the director;
4. The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust; and
5. No later than February 28 of each year, the trustee of the trust shall report to the director in writing setting forth the balance in the trust and listing the trust's investments at the preceding year-end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the following December 31.

(ii) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by this paragraph or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the director or commissioner with regulatory oversight over the trust, or with an order of a court of competent jurisdiction directing the trustee, to transfer to the director or commissioner with regulatory oversight over the trust or other designated receiver all of the assets of the trust fund.

(iii) The assets shall be distributed by and claims shall be filed with and valued by the director or commissioner with regulatory oversight over the trust in accordance with the laws of the state in which the trust is domiciled applicable to the liquidation of domestic insurance companies.

(iv) If the director or commissioner with regulatory oversight over the trust determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States beneficiaries of the trust, the director or commissioner with regulatory oversight over the trust shall return the assets, or any part thereof, to the trustee for distribution in accordance with the trust agreement.

(v) The grantor shall waive any right otherwise available to it under United States law that is inconsistent with this provision.

(d) For purposes of this subsection, "liabilities" means the assuming insurer's gross liabilities attributable to reinsurance ceded by United States-domiciled insurers, excluding liabilities that are otherwise secured by acceptable means, and shall include:

(i) For business ceded by domestic insurers authorized to write accident and health insurance and property and casualty insurance:

1. Losses and allocated loss expenses paid by the ceding insurer, recoverable from the assuming insurer;
2. Reserves for losses reported and outstanding;
3. Reserves for losses incurred but not reported;
4. Reserves for allocated loss expenses; and
5. Unearned premiums.

(ii) For business ceded by domestic insurers authorized to write life, health, and annuity insurance:

1. Aggregate reserves for life policies and contracts net of policy loans and net due and deferred premiums;
2. Aggregate reserves for accident and health policies;
3. Deposit funds and other liabilities without life or disability contingencies; and
4. Liabilities for policy and contract claims.

(e) Assets deposited in trusts established pursuant to section 41-515(2), Idaho Code, and this subsection shall be valued according to their current fair market value and shall consist only of cash in United States dollars, certificates of deposit issued by a United States financial institution as defined in section 41-515(4)(a), Idaho Code, clean, irrevocable, unconditional, and evergreen letters of credit issued or confirmed by a qualified United States financial institution as defined in section 41-515(4)(a), Idaho Code, and investments of the type specified in this paragraph, but investments in or issued by an entity controlling, controlled by, or under common control with either the grantor or beneficiary of the trust shall not exceed five percent (5%) of total investments. No more than twenty percent (20%) of the total of the investments in the trust may be foreign investments authorized under subparagraph (i)5., (iii), (v)2., or (vi) of this paragraph, and no more than ten percent (10%) of the total of the investments in the trust may be securities denominated in foreign currencies. For purposes of applying the preceding sentence, a depository receipt denominated in United States dollars and representing rights conferred by a foreign security shall be classified as a foreign investment denominated in a foreign currency. The assets of a trust established to satisfy the requirements of section 41-515(2), Idaho Code, shall be invested only as follows:

(i) Government obligations that are not in default as to principal or interest, that are valid and legally authorized, and that are issued, assumed, or guaranteed by:

1. The United States or by any agency or instrumentality of the United States;
2. A state of the United States;
3. A territory, possession, or other governmental unit of the United States;
4. An agency or instrumentality of a governmental unit referred to in 2. and 3. of this subparagraph if the obligations shall be by law, statutory or otherwise, payable, as to both principal and interest, from taxes levied or by law required to be levied or from adequate special revenues pledged or otherwise appropriated or by law required to be provided for making these payments, but shall not be obligations eligible for investment under this paragraph if payable solely out of special assessments on properties benefited by local improvements; or
5. The government of any other country that is a member of the organization for economic cooperation and development and whose government obligations are rated A or higher, or the equivalent, by a rating agency recognized by the securities valuation office of the NAIC.

(ii) Obligations that are issued in the United States or that are dollar-denominated and issued in a non-United States market by a solvent United States institution, other than an insurance company, or that are assumed or guaranteed by a solvent United States institution, other than an insurance company, and that are not in default as to principal or interest if the obligations:

1. Are rated A or higher, or the equivalent, by a securities rating agency recognized by the securities valuation office of the NAIC or, if not so rated, are similar in structure and other material respects to other obligations of the same institution that are so rated;
2. Are insured by at least one (1) authorized insurer, other than the investing insurer or a parent, subsidiary, or affiliate of the investing insurer, licensed to insure obligations in this state and, after considering the insurance, are rated AAA, or the equivalent, by a securities rating agency recognized by the securities valuation office of the NAIC; or
3. Have been designated as class 1 or class 2 by the securities valuation office of the NAIC.

(iii) Obligations issued, assumed, or guaranteed by a solvent non-United States institution chartered in a country that is a member of the organization for economic cooperation and development or obligations of United States corporations issued in a non-United States currency, provided that in either case the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the securities valuation office of the NAIC.

(iv) An investment made pursuant to the provisions of subparagraph (i), (ii), or (iii) of this paragraph shall be subject to the following additional limitations:

1. An investment in or loan upon the obligations of an institution other than an institution that issues mortgage-related securities shall not exceed five percent (5%) of the assets of the trust;
2. An investment in any one (1) mortgage-related security shall not exceed five percent (5%) of the assets of the trust;
3. The aggregate total investment in mortgage-related securities shall not exceed twenty-five percent (25%) of the assets of the trust; and
4. Preferred or guaranteed shares issued or guaranteed by a solvent United States institution are permissible investments if all of the institution's obligations are eligible as investments under subparagraph (ii)1. and 3. of this paragraph, but shall not exceed two percent (2%) of the assets of the trust.

(v) As used in this section:

1. "Mortgage-related security" means an obligation that is rated AA or higher, or the equivalent, by a securities rating agency recognized by the securities valuation office of the NAIC and that either:

- (A) Represents ownership of one (1) or more promissory notes or certificates of interest or participation in the notes, including any rights designed to assure servicing of, or the receipt or timeliness of receipt by the holders of the notes, certificates, or participation of amounts payable under, the notes, certificates, or participation, that:

a. Are directly secured by a first lien on a single parcel of real estate, including stock allocated to a dwelling unit in a residential cooperative housing corporation, upon which is located a dwelling or mixed residential and commercial structure, or on a residential manufactured home as defined in 42 U.S.C. 5402(6), whether the manufactured home is considered real or personal property under the laws of the state in which it is located; and

b. Were originated by a savings and loan association, savings bank, commercial bank, credit union, insurance company, or similar institution that is supervised and examined by a federal or state housing authority, or by a mortgagee approved by the secretary of housing and urban development pursuant to 12 U.S.C. 1709 and 1715b, or, where the notes involve a lien on the manufactured home, by an institution or by a financial institution approved for insurance by the secretary of housing and urban development pursuant to 12 U.S.C. 1703; or

(B) Is secured by one (1) or more promissory notes or certificates of deposit or participations in the notes, with or without recourse to the insurer of the notes, and, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, or notes meeting the requirements of items 1.(A)a. and 1.(A)b. of this subparagraph; and

2. "Promissory note," when used in connection with a manufactured home, shall also include a loan, advance, or credit sale as evidenced by a retail installment sales contract or other instrument.

(vi) Equity interests.

1. Investments in common shares or partnership interests of a solvent United States institution are permissible if:

(A) Its obligations and preferred shares, if any, are eligible as investments under this paragraph; and

(B) The equity interests of the institution, except an insurance company, are registered on a national securities exchange as provided in the securities exchange act of 1934, 15 U.S.C. 78a to 78kk or otherwise registered pursuant to that act and, if otherwise registered, price quotations for them are furnished through a nationwide automated quotations system approved by the financial industry regulatory authority, or successor organization. A trust shall not invest in equity interests under this paragraph an amount exceeding one percent (1%) of the assets of the trust even though the equity interests are not so registered and are not issued by an insurance company;

2. Investments in common shares of a solvent institution organized under the laws of a country that is a member of the organization for economic cooperation and development, if:

(A) All its obligations are rated A or higher, or the equivalent, by a rating agency recognized by the securities valuation office of the NAIC; and

(B) The equity interests of the institution are registered on a securities exchange regulated by the government of a country that is a member of the organization for economic cooperation and development.

3. An investment in or loan upon any one (1) institution's outstanding equity interests shall not exceed one percent (1%) of the assets of the trust. The cost of an investment in equity interests made pursuant to this paragraph, when added to the aggregate cost of other investments in equity interests then held pursuant to this paragraph, shall not exceed ten percent (10%) of the assets in the trust.

(vii) Obligations issued, assumed, or guaranteed by a multinational development bank, provided the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the securities valuation office of the NAIC.

(viii) Investment companies.

1. Securities of an investment company registered pursuant to the investment company act of 1940, 15 U.S.C. 80a, are permissible investments if the investment company:

(A) Invests at least ninety percent (90%) of its assets in the types of securities that qualify as an investment under subparagraph (i), (ii), or (iii) of this paragraph or invests in securities that are determined by the director to be substantively similar to the types of securities set forth in subparagraph (i), (ii), or (iii) of this paragraph; or

(B) Invests at least ninety percent (90%) of its assets in the types of equity interests that qualify as an investment under subparagraph (vi)1. of this paragraph;

2. Investments made by a trust in investment companies under subparagraph (vi) of this paragraph shall not exceed the following limitations:

(A) An investment in an investment company qualifying under 1. (A) of this subparagraph shall not exceed ten percent (10%) of the assets in the trust, and the aggregate amount of investment in qualifying investment companies shall not exceed twenty-five percent (25%) of the assets in the trust; and

(B) Investments in an investment company qualifying under 1. (B) of this subparagraph shall not exceed five percent (5%) of the assets in the trust, and the aggregate amount of investment in qualifying investment companies shall be included when calculating the permissible aggregate value of equity interests pursuant to subparagraph (vi)1. of this paragraph.

(ix) Letters of credit.

1. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement, as duly approved by the director, to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.

2. The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct, or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence or willful misconduct, or both.

(f) A specific security provided to a ceding insurer by an assuming insurer pursuant to subsection (9) of this section shall be applied, until exhausted, to the payment of liabilities of the assuming insurer to the ceding insurer holding the specific security prior to, and as a condition precedent for, presentation of a claim by the ceding insurer for payment by a trustee of a trust established by the assuming insurer pursuant to this subsection.

(6) Certified reinsurers.

(a) Pursuant to section 41-515(2)(e), Idaho Code, the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in this state at all times for which statutory financial statement credit for reinsurance is claimed under this subsection. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the director. The security shall be in a form consistent with the provisions of section 41-515(2)(e), Idaho Code, and subsection (10), (11), or (12) of this section. The amount of security necessary in order for full credit to be allowed shall correspond with the following requirements:

(i)

Ratings	Security Necessary
Secure - 1	0%
Secure - 2	10%
Secure - 3	20%
Secure - 4	50%
Secure - 5	75%
Vulnerable - 6	100%

(ii) Affiliated reinsurance transactions shall receive the same opportunity for reduced security requirements as all other reinsurance transactions.

(iii) The director shall require the certified reinsurer to post one hundred percent (100%) security, for the benefit of the ceding insurer or its estate, upon the entry of an order of rehabilitation, liquidation, or conservation against the ceding insurer.

(iv) In order to facilitate the prompt payment of claims, a certified reinsurer shall not be required to post security for catastrophe recoverables for a period of one (1) year from the date of the first instance of a liability reserve entry by the ceding company as a result of a loss from a catastrophic occurrence as recognized by the director. The one (1) year deferral period is contingent upon the certified reinsurer continuing to pay claims in a timely manner. Reinsurance recoverables for only the following lines of business as reported on the NAIC annual financial statement related specifically to the catastrophic occurrence will be included in the deferral:

1. Line 1: Fire;
2. Line 2: Allied lines;
3. Line 3: Farmowners multiple peril;
4. Line 4: Homeowners multiple peril;
5. Line 5: Commercial multiple peril;
6. Line 9: Inland marine;
7. Line 12: Earthquake; and
8. Line 21: Auto physical damage.

(v) Credit for reinsurance under this subsection shall apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer. Any reinsurance contract entered into prior to the effective date of the certification of the assuming insurer that is subsequently amended after the effective date of the certification of the assuming insurer, or a new reinsurance contract, covering any risk for which collateral was provided previously, shall be subject to this subsection only with respect to losses incurred and reserves reported from and after the effective date of the amendment or new contract.

(vi) Nothing in this section shall prohibit the parties to a reinsurance agreement from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under this subsection.

(b) Certification procedure.

(i) The director shall post notice on the department's website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The director may not take final action on the application until at least thirty (30) days after posting the notice prescribed by this subparagraph.

(ii) The director shall issue written notice to an assuming insurer that has made application and been approved as a certified reinsurer. Included in such notice shall be the rating assigned the certified reinsurer in accordance with paragraph (a) (i) of this subsection. The director shall publish a list of all certified reinsurers and their ratings.

(iii) In order to be eligible for certification, the assuming insurer shall meet the following requirements:

1. The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the director pursuant to paragraph (c) of this subsection.
2. The assuming insurer must maintain capital and surplus, or its equivalent, of no less than two hundred fifty million dollars (\$250,000,000), calculated in accordance with paragraph (b) (iv) 8. of this subsection. This requirement may also be satisfied by an association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) of at least two hundred fifty million dollars (\$250,000,000) and a central fund containing a balance of at least two hundred fifty million dollars (\$250,000,000).
3. The assuming insurer must maintain financial strength ratings from two (2) or more rating agencies deemed acceptable by the director. These ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. These financial strength ratings will be one (1) factor used by the director in determining

the rating that is assigned to the assuming insurer. Acceptable rating agencies include S&P global ratings, Moody's investors service, Fitch ratings, A.M. Best company, or any other nationally recognized statistical rating organization.

4. The certified reinsurer must comply with any other requirements reasonably imposed by the director.

(iv) Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association, including incorporated and individual unincorporated underwriters, that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. Factors that may be considered as part of the evaluation process include but are not limited to the following:

1. The certified reinsurer's financial strength rating from an acceptable rating agency. The maximum rating that a certified reinsurer may be assigned shall correspond to its financial strength rating as outlined in the following table. The director shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or maintain at least two (2) financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification:

Ratings	Best	S&P	Moody's	Fitch
Secure - 1	A++	AAA	Aaa	AAA
Secure - 2	A+	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-
Secure - 3	A	A+, A	A1, A2	A+, A
Secure - 4	A-	A-	A3	A-
Secure - 5	B++, B+	BBB+, BBB, BBB-	Baa1, Baa2, Baa3	BBB+, BBB, BBB-
Vulnerable - 6	B, B-, C++, C+, C, C-, D, E, F	BB+, BB, BB-, B+, B, B-, CCC, CC, C, D, R	Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C	BB+, BB, BB-, B+, B, B-, CCC+, CC, CCC-, DD

2. The business practices of the certified reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations;

3. For certified reinsurers domiciled in the United States, a review of the most recent applicable NAIC annual statement blank, either schedule F (for property/casualty reinsurers) or schedule S (for life and health reinsurers);

4. For certified reinsurers not domiciled in the United States, a review annually of form CR-F (for property/casualty reinsurers) or form CR-S (for life and health reinsurers);

5. The reputation of the certified reinsurer for prompt payment of claims under reinsurance agreements, based on an analysis of ceding insurers' schedule F reporting of overdue reinsurance recoverables, including the proportion of

obligations that are more than ninety (90) days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership;

6. Regulatory actions against the certified reinsurer;

7. The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in 8. of this subparagraph;

8. For certified reinsurers not domiciled in the United States, audited financial statements, regulatory filings, and actuarial opinion as filed with the non-United States jurisdiction supervisor, with a translation into English. Upon the initial application for certification, the director will consider audited financial statements for the last two (2) years filed with its non-United States jurisdiction supervisor;

9. The liquidation priority of obligations to a ceding insurer in the certified reinsurer's domiciliary jurisdiction in the context of an insolvency proceeding;

10. A certified reinsurer's participation in any solvent scheme of arrangement, or similar procedure, that involves United States ceding insurers. The director shall receive prior notice from a certified reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement; and

11. Any other information deemed relevant by the director.

(v) Based on the analysis conducted under subparagraph (iv)5. of this paragraph of a certified reinsurer's reputation for prompt payment of claims, the director may make appropriate adjustments in the security the certified reinsurer is required to post to protect its liabilities to United States ceding insurers, provided that the director shall, at a minimum, increase the security the certified reinsurer is required to post by one (1) rating level under subparagraph (iv)1. of this paragraph if the director finds that:

1. More than fifteen percent (15%) of the certified reinsurer's ceding insurance clients have overdue reinsurance recoverables on paid losses of ninety (90) days or more that are not in dispute and that exceed one hundred thousand dollars (\$100,000) for each cedent; or

2. The aggregate amount of reinsurance recoverables on paid losses not in dispute overdue by ninety (90) days or more exceeds fifty million dollars (\$50,000,000).

(vi) The assuming insurer must submit a properly executed form CR-1 as evidence of its submission to the jurisdiction of this state, appointment of the director as an agent for service of process in this state, and agreement to provide security for one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists enforcement of a final United States judgment. The director shall not certify any assuming insurer that is domiciled in a jurisdiction that the director has determined does not adequately and promptly enforce final United States judgments or arbitration awards.

(vii) The certified reinsurer must agree to meet applicable information filing requirements as determined by the director, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers not otherwise public information subject to disclosure shall be

exempt from disclosure under chapter 1, title 74, Idaho Code, and shall be withheld from public disclosure. The applicable information filing requirements are as follows:

1. Notification within ten (10) days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license, or any change in rating by an approved rating agency, including a statement describing such changes and the reasons therefor;
2. Annually, form CR-F or CR-S as applicable per instructions adopted by the department;
3. Annually, the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in 4. of this subparagraph;
4. Annually, the most recent audited financial statements, regulatory filings, and actuarial opinion as filed with the certified reinsurer's supervisor, with a translation into English. Upon the initial certification, audited financial statements for the last two (2) years filed with the certified reinsurer's supervisor;
5. At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from United States domestic ceding insurers;
6. A certification from the certified reinsurer's domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level; and
7. Any other information that the director may reasonably require.

(viii) Change in rating or revocation of certification.

1. In the case of a downgrade by a rating agency or other disqualifying circumstance, the director shall upon written notice assign a new rating to the certified reinsurer in accordance with the requirements of subparagraph (iv)1. of this paragraph.
2. The director shall have the authority to suspend, revoke, or otherwise modify a certified reinsurer's certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this section or if other financial or operating results of the certified reinsurer, or documented significant delays in payment by the certified reinsurer, lead the director to reconsider the certified reinsurer's ability or willingness to meet its contractual obligations.
3. If the rating of a certified reinsurer is upgraded by the director, the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis, but the director shall require the certified reinsurer to post security under the previously applicable security requirements as to all contracts in force on or before the effective date of the upgraded rating. If the rating of a certified reinsurer is downgraded by the director, the director shall require the certified reinsurer to meet the security requirements applicable to its new rating for all business it has assumed as a certified reinsurer.
4. Upon revocation of the certification of a certified reinsurer by the director, the assuming insurer shall be required to post security in accordance with subsection (9) of this section in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming

insurer. If funds continue to be held in trust in accordance with subsection (5) of this section, the director may allow additional credit equal to the ceding insurer's pro rata share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer's rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of three (3) months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the director to be at high risk of uncollectibility.

(c) Qualified jurisdictions.

(i) If, upon conducting an evaluation under this subsection with respect to the reinsurance supervisory system of any non-United States assuming insurer, the director determines that the jurisdiction qualifies to be recognized as a qualified jurisdiction, the director shall publish notice and evidence of such recognition in an appropriate manner. The director may establish a procedure to withdraw recognition of those jurisdictions that are no longer qualified.

(ii) In order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the director shall evaluate the reinsurance supervisory system of the non-United States jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits, and extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States. The director shall determine the appropriate approach for evaluating the qualifications of such jurisdictions and create and publish a list of jurisdictions whose reinsurers may be approved by the director as eligible for certification. A qualified jurisdiction must agree to share information and cooperate with the director with respect to all certified reinsurers domiciled within that jurisdiction. Additional factors to be considered in determining whether to recognize a qualified jurisdiction, in the discretion of the director, include but are not limited to the following:

1. The framework under which the assuming insurer is regulated;
2. The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance;
3. The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction;
4. The form and substance of financial reports required to be filed or made publicly available by reinsurers in the domiciliary jurisdiction and the accounting principles used;
5. The domiciliary regulator's willingness to cooperate with United States regulators in general and the director in particular;
6. The history of performance by assuming insurers in the domiciliary jurisdiction;

7. Any documented evidence of substantial problems with the enforcement of final United States judgments in the domiciliary jurisdiction. A jurisdiction will not be considered to be a qualified jurisdiction if the director has determined that it does not adequately and promptly enforce final United States judgments or arbitration awards;

8. Any relevant international standards or guidance with respect to mutual recognition of reinsurance supervision adopted by the international association of insurance supervisors or its successor organization; and

9. Any other matters deemed relevant by the director.

(iii) A list of qualified jurisdictions shall be published through the NAIC committee process. The director shall consider this list in determining qualified jurisdictions. If the director approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the director shall provide thoroughly documented justification with respect to the criteria provided under subparagraph (ii) of this paragraph.

(iv) United States jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.

(d) Recognition of certification issued by an NAIC-accredited jurisdiction.

(i) If an applicant for certification has been certified as a reinsurer in an NAIC-accredited jurisdiction, the director has the discretion to defer to that jurisdiction's certification, and to defer to the rating assigned by that jurisdiction, if the assuming insurer submits a properly executed form CR-1 and such additional information as the director requires. The assuming insurer shall be considered to be a certified reinsurer in this state.

(ii) Any change in the certified reinsurer's status or rating in the other jurisdiction shall apply automatically in this state as of the date it takes effect in the other jurisdiction. The certified reinsurer shall notify the director of any change in its status or rating within ten (10) days after receiving notice of the change.

(iii) The director may withdraw recognition of the other jurisdiction's rating at any time and assign a new rating in accordance with paragraph (b) (viii) of this subsection.

(iv) The director may withdraw recognition of the other jurisdiction's certification at any time, with written notice to the certified reinsurer. Unless the director suspends or revokes the certified reinsurer's certification in accordance with paragraph (b) (viii) of this subsection, the certified reinsurer's certification shall remain in good standing in this state for a period of three (3) months, which shall be extended if additional time is necessary to consider the assuming insurer's application for certification in this state.

(e) Mandatory funding clause. In addition to the clauses required under subsection (13) of this section, reinsurance contracts entered into or renewed under this section shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this section for reinsurance ceded to the certified reinsurer.

(f) The director shall comply with all reporting and notification requirements that may be established by the NAIC with respect to certified reinsurers and qualified jurisdictions.

(7) Reciprocal jurisdictions.

(a) Pursuant to section 41-515(2)(f), Idaho Code, the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer licensed to write reinsurance by, and has its head office or is domiciled in, a reciprocal jurisdiction and that meets the other requirements of this section.

(b) A reciprocal jurisdiction is a jurisdiction, as designated by the director pursuant to paragraph (d) of this subsection, that meets one (1) of the following:

(i) A non-United States jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and the European Union, is a member state of the European Union. For purposes of this paragraph, a covered agreement is an agreement entered into pursuant to the Dodd-Frank Wall Street reform and consumer protection act, 31 U.S.C. 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance;

(ii) A United States jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program; or

(iii) A qualified jurisdiction, as determined by the director pursuant to section 41-515(2)(e)(iii), Idaho Code, and subsection (6)(c) of this section, that is not otherwise described in subparagraph (i) or (ii) of this paragraph and that the director determines meets all of the following additional requirements:

1. Provides that an insurer that has its head office or is domiciled in such qualified jurisdiction shall receive credit for reinsurance ceded to a United States-domiciled assuming insurer in the same manner as credit for reinsurance is received for reinsurance assumed by insurers domiciled in such qualified jurisdiction;

2. Does not require a United States-domiciled assuming insurer to establish or maintain a local presence as a condition for entering into a reinsurance agreement with any ceding insurer subject to regulation by the non-United States jurisdiction or as a condition to allow the ceding insurer to recognize credit for such reinsurance;

3. Recognizes the United States state regulatory approach to group supervision and group capital, by providing written confirmation by a competent regulatory authority, in such qualified jurisdiction, that insurers and insurance groups that are domiciled or maintain their headquarters in this state or another jurisdiction accredited by the NAIC shall be subject only to worldwide prudential insurance group supervision, including worldwide group governance, solvency, and capital, and reporting, as applicable, by the director or the commissioner of the domiciliary state and will not be subject to group supervision at the level of the worldwide parent undertaking of the insurance or reinsurance group by the qualified jurisdiction; and

4. Provides written confirmation by a competent regulatory authority in such qualified jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the director in accordance with a memorandum of understanding or similar document between the director and such qualified jurisdiction, including but not limited to the international association of insurance supervisors multilateral memorandum of understanding or other multilateral memoranda of understanding coordinated by the NAIC.

(c) Credit shall be allowed when the reinsurance is ceded from an insurer domiciled in this state to an assuming insurer meeting each of the following conditions:

(i) The assuming insurer must be licensed to transact reinsurance by, and have its head office or be domiciled in, a reciprocal jurisdiction.

(ii) The assuming insurer must have and maintain on an ongoing basis minimum capital and surplus, or its equivalent, calculated on at least an annual basis as of the preceding December 31 or at the annual date otherwise statutorily reported to the reciprocal jurisdiction, and confirmed as set forth in subparagraph (vii) of this paragraph according to the methodology of its domiciliary jurisdiction, in the following amounts:

1. No less than two hundred fifty million dollars (\$250,000,000); or

2. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters:

(A) Minimum capital and surplus equivalents (net of liabilities) or own funds of the equivalent of at least two hundred fifty million dollars (\$250,000,000); and

(B) A central fund containing a balance of the equivalent of at least two hundred fifty million dollars (\$250,000,000).

(iii) The assuming insurer must have and maintain on an ongoing basis a minimum solvency or capital ratio, as applicable, as follows:

1. If the assuming insurer has its head office or is domiciled in a reciprocal jurisdiction as defined in paragraph (b) (i) of this subsection, the ratio specified in the applicable covered agreement;

2. If the assuming insurer is domiciled in a reciprocal jurisdiction as defined in paragraph (b) (ii) of this subsection, a risk-based capital (RBC) ratio of three hundred percent (300%) of the authorized control level, calculated in accordance with the formula developed by the NAIC; or

3. If the assuming insurer is domiciled in a reciprocal jurisdiction as defined in paragraph (b) (iii) of this subsection, after consultation with the reciprocal jurisdiction and considering any recommendations published through the NAIC committee process, such solvency or capital ratio as the director determines to be an effective measure of solvency.

(iv) The assuming insurer must agree to and provide adequate assurance, in the form of a properly executed form RJ-1, of its agreement to the following:

1. The assuming insurer must agree to provide prompt written notice and explanation to the director if it falls below the minimum requirements set forth in subparagraph (ii) or (iii) of this paragraph or if any regulatory action is taken against it for serious noncompliance with applicable law.
2. The assuming insurer must consent in writing to the jurisdiction of the courts of this state and to the appointment of the director as agent for service of process.
 - (A) The director may also require that such consent be provided and included in each reinsurance agreement under the director's jurisdiction.
 - (B) Nothing in this provision shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws.
3. The assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer that have been declared enforceable in the territory where the judgments were obtained.
4. Each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its estate, if applicable.
5. The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement that involves this state's ceding insurers and agrees to notify the ceding insurer and the director and to provide one hundred percent (100%) security to the ceding insurer consistent with the terms of the scheme, should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of section 41-515(2) (e) and (3), Idaho Code, and subsections (10) through (12) of this section. For purposes of this section, the term "solvent scheme of arrangement" means a foreign or alien statutory or regulatory compromise procedure subject to requisite majority creditor approval and judicial sanction in the assuming insurer's home jurisdiction either to finally commute liabilities of duly noticed classed members or creditors of a solvent debtor or to reorganize or restructure the debts and obligations of a solvent debtor on a final basis, which may be subject to judicial recognition and enforcement of the arrangement by a governing authority outside the ceding insurer's home jurisdiction.
6. The assuming insurer must agree in writing to meet the applicable information filing requirements as set forth in subparagraph (v) of this paragraph.

(v) The assuming insurer or its legal successor must provide, if requested by the director, on behalf of itself and any legal predecessors, the following documentation to the director:

1. For the two (2) years preceding entry into the reinsurance agreement and on an annual basis thereafter, the assuming insurer's annual audited financial statements, in accordance with the applicable law of the jurisdiction of its head office or domiciliary jurisdiction, as applicable, including the external audit report;
2. For the two (2) years preceding entry into the reinsurance agreement, the solvency and financial condition report or actuarial opinion, if filed with the assuming insurer's supervisor;
3. Prior to entry into the reinsurance agreement and not more than semiannually thereafter, an updated list of all disputed and overdue reinsurance claims outstanding for ninety (90) days or more regarding reinsurance assumed from ceding insurers domiciled in the United States; and
4. Prior to entry into the reinsurance agreement and not more than semiannually thereafter, information regarding the assuming insurer's assumed reinsurance by ceding insurer, ceded reinsurance by the assuming insurer, and reinsurance recoverable on paid and unpaid losses by the assuming insurer to allow for the evaluation of the criteria set forth in subparagraph (vi) of this paragraph.

(vi) The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements. The lack of prompt payment will be evidenced if any of the following criteria are met:

1. More than fifteen percent (15%) of the reinsurance recoverables from the assuming insurer are overdue and in dispute as reported to the director;
2. More than fifteen percent (15%) of the assuming insurer's ceding insurers or reinsurers have overdue reinsurance recoverable on paid losses of ninety (90) days or more that are not in dispute and that exceed for each ceding insurer one hundred thousand dollars (\$100,000), or as otherwise specified in a covered agreement; or
3. The aggregate amount of reinsurance recoverable on paid losses that are not in dispute, but are overdue by ninety (90) days or more, exceeds fifty million dollars (\$50,000,000), or as otherwise specified in a covered agreement.

(vii) The assuming insurer's supervisory authority must confirm to the director on an annual basis that the assuming insurer complies with the requirements set forth in subparagraphs (ii) and (iii) of this paragraph.

(viii) Nothing in this provision precludes an assuming insurer from providing the director with information on a voluntary basis.

(d) The director shall timely create and publish a list of reciprocal jurisdictions.

(i) A list of reciprocal jurisdictions is published through the NAIC committee process. The director's list shall include any reciprocal jurisdiction as defined under paragraph (b) (i) and (ii) of this subsection and shall consider any other reciprocal jurisdiction included on the NAIC list. The director may approve a jurisdiction that does not appear on the NAIC list of reciprocal jurisdictions as provided by applicable law or rule or in accordance with criteria published through the NAIC committee process.

- (ii) The director may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets one (1) or more of the requirements of a reciprocal jurisdiction, as provided by applicable law or rule or in accordance with a process published through the NAIC committee process, except that the director shall not remove from the list a reciprocal jurisdiction as described under paragraph (b) (i) and (ii) of this subsection. Upon removal of a reciprocal jurisdiction from this list, credit for reinsurance ceded to an assuming insurer domiciled in that jurisdiction shall be allowed, if otherwise allowed pursuant to section 41-515, Idaho Code, or this section.
- (e) The director shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this section and to which cessions shall be granted credit in accordance with this section.
- (i) If an NAIC-accredited jurisdiction has determined that the conditions set forth in paragraph (c) of this subsection have been met, the director has the discretion to defer to that jurisdiction's determination and to add such assuming insurer to the list of assuming insurers to which cessions shall be granted credit in accordance with this paragraph. The director may accept financial documentation filed with another NAIC-accredited jurisdiction or with the NAIC in satisfaction of the requirements of paragraph (c) of this subsection.
- (ii) When requesting that the director defer to another NAIC-accredited jurisdiction's determination, an assuming insurer must submit a properly executed form RJ-1 and additional information as the director may require. A state that has received such a request shall notify other states through the NAIC committee process and provide relevant information with respect to the determination of eligibility.
- (f) If the director determines that an assuming insurer no longer meets one (1) or more of the requirements under this subsection, the director may revoke or suspend the eligibility of the assuming insurer for recognition under this subsection.
- (i) While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended, or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured in accordance with subsection (9) of this section.
- (ii) If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the director and consistent with the provisions of subsection (9) of this section.
- (g) Before denying statement credit or imposing a requirement to post security with respect to paragraph (f) of this subsection, or adopting any similar requirement that will have substantially the same regulatory impact as security, the director shall:
- (i) Communicate with the ceding insurer, the assuming insurer, and the assuming insurer's supervisory authority that the assuming insurer no longer satisfies any of the conditions listed in paragraph (c) of this subsection;

(ii)1. Provide the assuming insurer with thirty (30) days from the initial communication to submit a plan to remedy the defect, and ninety (90) days from the initial communication to remedy the defect, except in exceptional circumstances in which a shorter period is necessary for policyholder and other consumer protection.

2. After the expiration of ninety (90) days or less, as set out in 1. of this subparagraph, if the director determines that no or insufficient action was taken by the assuming insurer, the director may impose any of the requirements as set out in this paragraph; and

(iii) Provide a written explanation to the assuming insurer of any of the requirements set out in this subsection.

(h) If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer or its representative may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding liabilities.

(8) Credit for reinsurance required by law. Pursuant to section 41-515(2)(g), Idaho Code, the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of section 41-515(2)(a), (b), (c), (d), (e), or (f), Idaho Code, but only as to the insurance of risks located in jurisdictions where the reinsurance is required by the applicable law or regulation of that jurisdiction. As used in this subsection, the term "jurisdiction" means a state, district, or territory of the United States and any lawful national government.

(9) Asset or reduction from liability for reinsurance ceded to an unauthorized assuming insurer not meeting the requirements of subsections (2) through (8) of this section.

(a) Pursuant to section 41-515(3), Idaho Code, the director shall allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of section 41-515(2), Idaho Code, in an amount not exceeding the liabilities carried by the ceding insurer. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations under the reinsurance contract. The security shall be held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer or, in the case of a trust, held in a qualified United States financial institution as defined in section 41-515(4)(b), Idaho Code. This security may be in the form of any of the following:

(i) Cash;

(ii) Securities listed by the securities valuation office of the NAIC, including those deemed exempt from filing as defined by the purposes and procedures manual of the securities valuation office, and qualifying as admitted assets;

(iii) Clean, irrevocable, unconditional, and evergreen letters of credit issued or confirmed by a qualified United States institution, as defined in section 41-515(4)(a), Idaho Code, effective no later than December 31 of the year for which filing is being made, and in the possession of, or in trust for, the ceding insurer on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to

be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever first occurs; or
(iv) Any other form of security acceptable to the director.

(b) An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to this section shall be allowed only when the requirements of subsection (13) of this section and the applicable portions of subsection (10), (11), or (12) of this section have been satisfied.

(10) Trust agreements qualified under subsection (9) of this section.

(a) As used in this subsection:

(i) "Beneficiary" means the entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court-appointed domiciliary receiver, including conservator, rehabilitator, or liquidator.

(ii) "Grantor" means the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the unlicensed, unaccredited assuming insurer.

(iii) "Obligations," as used in paragraph (b) (xi) of this subsection, means:

1. Reinsured losses and allocated loss expenses paid by the ceding company but not recovered from the assuming insurer;
2. Reserves for reinsured losses reported and outstanding;
3. Reserves for reinsured losses incurred but not reported; and
4. Reserves for allocated reinsured loss expenses and unearned premiums.

(b) Required conditions.

(i) The trust agreement shall be entered into between the beneficiary, the grantor, and a trustee, which shall be a qualified United States financial institution as defined in section 41-515(4) (b), Idaho Code.

(ii) The trust agreement shall create a trust account into which assets shall be deposited.

(iii) All assets in the trust account shall be held by the trustee at the trustee's office in the United States.

(iv) The trust agreement shall provide that:

1. The beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee;
2. No other statement or document is required to be presented to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets;
3. It is not subject to any conditions or qualifications outside of the trust agreement; and
4. It shall not contain references to any other agreements or documents except as provided for in subparagraphs (xi) and (xii) of this paragraph.

(v) The trust agreement shall be established for the sole benefit of the beneficiary.

(vi) The trust agreement shall require the trustee to:

1. Receive assets and hold all assets in a safe place;

2. Determine that all assets are in such form that the beneficiary, or the trustee upon direction by the beneficiary, may whenever necessary negotiate any such assets without consent or signature from the grantor or any other person or entity;

3. Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter;

4. Notify the grantor and the beneficiary within ten (10) days of any deposits to or withdrawals from the trust account;

5. Upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title, and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary; and

6. Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of but with notice to the beneficiary, upon call or maturity of any trust asset, withdraw such asset upon condition that the proceeds are paid into the trust account.

(vii) The trust agreement shall provide that at least thirty (30) days, but not more than forty-five (45) days, prior to termination of the trust account written notification of termination shall be delivered by the trustee to the beneficiary.

(viii) The trust agreement shall be made subject to and governed by the laws of the state in which the trust is domiciled.

(ix) The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying commission to, or reimbursing the expenses of, the trustee. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement, as duly approved by the director, to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.

(x) The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct, or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence or willful misconduct, or both.

(xi) Notwithstanding other provisions of this section, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities, and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:

1. To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;

2. To make payment to the assuming insurer of any amounts held in the trust account that exceed one hundred two percent (102%) of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement; or

3. Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten (10) days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution as defined in section 41-515(4) (b), Idaho Code, apart from its general assets, in trust for such uses and purposes specified in 1. and 2. of this subparagraph as may remain executory after such withdrawal and for any period after the termination date.

(xii) Notwithstanding other provisions of this section, when a trust agreement is established to meet the requirements of subsection (9) of this section in conjunction with a reinsurance agreement covering life, annuities, or accident and health risks, where it is customary to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:

1. To pay or reimburse the ceding insurer for:

(A) The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of the policies; and

(B) The assuming insurer's share under the specific reinsurance agreement of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurer, under the terms and provisions of the policies reinsured under the reinsurance agreement;

2. To pay to the assuming insurer amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer; or

3. Where the ceding insurer has received notification of termination of the trust and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten (10) days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer, and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution apart from its general assets, in trust for the uses and purposes specified in 1. and 2. of this subparagraph as may remain executory after withdrawal and for any period after the termination date.

(xiii) Either the reinsurance agreement or the trust agreement must stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash in United States dollars, certificates of deposit issued by a United States bank and payable in United States dollars, and investments permitted by this title of the Idaho Code, or any combination thereof, provided investments in or issued by an entity controlling, controlled by, or under common control with either the grantor or the beneficiary of the trust shall not exceed five percent (5%) of total investments. The agreement may further specify the types of investments to be deposited. If the reinsurance agreement covers life, annuities, or accident and health risks, then the provisions required by this subparagraph must be included in the reinsurance agreement.

(c) Permitted conditions.

(i) The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not less than ninety (90) days after the beneficiary and grantor receive the notice, and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than ninety (90) days after the trustee and the beneficiary receive the notice, provided that no such resignation or removal shall be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee.

(ii) The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any interest or dividends shall be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name.

(iii) The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions that the trustee determines are at least equal in current fair market value to the assets withdrawn and that are consistent with the restrictions in paragraph (d) (i) 2. of this subsection.

(iv) The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets.

(v) The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor.

(d) Additional conditions applicable to reinsurance agreements.

(i) A reinsurance agreement may contain provisions that:

1. Require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of the ceding insurer, specifying what the agreement is to cover;

2. Require the assuming insurer, prior to depositing assets with the trustee, to execute assignments or endorsements in blank, or to transfer legal title to the trustee of all shares, obligations, or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may whenever necessary negotiate these assets without consent or signature from the assuming insurer or any other entity;

3. Require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent; and

4. Stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver, or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for the following purposes:

(A) To pay or reimburse the ceding insurer for:

a. The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies;

b. The assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement; and

c. Any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer; and

(B) To make payment to the assuming insurer of amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.

(ii) The reinsurance agreement also may contain provisions that:

1. Give the assuming insurer the right to seek approval from the ceding insurer, which shall not be unreasonably or arbitrarily withheld, to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, provided:

(A) The assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a current fair market value equal to the market value of the assets withdrawn so as to maintain at all times the deposit in the required amount; or

(B) After withdrawal and transfer, the current fair market value of the trust account is no less than one hundred two percent (102%) of the required amount.

2. Provide for the return of any amount withdrawn in excess of the actual amounts required for subparagraph (i)4. of this paragraph and for interest payments at a rate not in excess of the prime rate of interest on such amounts;

3. Permit the award by any arbitration panel or court of competent jurisdiction of:

- (A) Interest at a rate different from that provided in 2. of this subparagraph;
- (B) Court or arbitration costs;
- (C) Attorney's fees; and
- (D) Any other reasonable expenses.

(e) Financial reporting. A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this department in compliance with the provisions of this section when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but such reduction shall be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure.

(f) Existing agreements. Notwithstanding the effective date of this section, any trust agreement or underlying reinsurance agreement in existence prior to July 1, 2021, will continue to be acceptable until July 1, 2022, at which time such agreement will have to fully comply with this section for the trust agreement to be acceptable.

(g) The failure of any trust agreement to specifically identify the beneficiary as defined in paragraph (a) of this subsection shall not be construed to affect any actions or rights that the director may take or possess pursuant to the provisions of the laws of this state.

(11) Letters of credit qualified under subsection (9) of this section.

(a) The letter of credit must be clean, irrevocable, unconditional, and issued or confirmed by a qualified United States financial institution as defined in section 41-515(4) (a), Idaho Code. The letter of credit shall contain an issue date and expiration date and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit also shall indicate that it is not subject to any conditions or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents, or entities, except as provided in paragraph (h) (i) of this subsection. As used in this subsection, "beneficiary" means the domestic insurer for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court-appointed domiciliary receiver, including conservator, rehabilitator, or liquidator.

(b) The heading of the letter of credit may include a boxed section containing the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section shall be clearly marked to indicate that such information is for internal identification purposes only.

(c) The letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto.

(d) The term of the letter of credit shall be for at least one (1) year and shall contain an evergreen clause that prevents the expiration of the letter of credit without due notice from the issuer. The evergreen clause shall provide for a period of no less than thirty (30) days' notice prior to its expiration date or nonrenewal.

(e) The letter of credit shall state whether it is subject to and governed by the laws of this state or the uniform customs and practice for documentary credits of the international chamber of commerce publication 600 (UCP 600) or international standby practices of the international chamber of commerce publication 590 (ISP98), or any successor publication, and all drafts drawn thereunder shall be presentable at an office in the United States of a qualified United States financial institution.

(f) If the letter of credit is made subject to the uniform customs and practice for documentary credits of the international chamber of commerce publication 600 (UCP 600) or international standby practices of the international chamber of commerce publication 590 (ISP98), or any successor publication, then the letter of credit shall specifically address and provide for an extension of time to draw against the letter of credit in the event that one (1) or more of the occurrences specified in article 36 of UCP 600 or any other successor publication occur.

(g) If the letter of credit is issued by a financial institution authorized to issue letters of credit, other than a qualified United States financial institution as described in paragraph (a) of this subsection, then the following additional requirements shall be met:

(i) The issuing financial institution shall formally designate the confirming qualified United States financial institution as its agent for the receipt and payment of the drafts; and

(ii) The evergreen clause shall provide for thirty (30) days' notice prior to its expiration date or nonrenewal.

(h) Reinsurance agreement provisions.

(i) The reinsurance agreement in conjunction with which the letter of credit is obtained may contain provisions that:

1. Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover;

2. Stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the agreement, and shall be utilized by the ceding insurer or its successors in interest only for one (1) or more of the following reasons:

(A) To pay or reimburse the ceding insurer for:

a. The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurers, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies;

b. The assuming insurer's share, under the specific reinsurance agreement, of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurers, under the terms and provisions of the policies reinsured under the reinsurance agreement; and

c. Any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer;

(B) Where the letter of credit will expire without renewal or be reduced or replaced by a letter of credit for a reduced amount and where the assuming insurer's entire obligations under the reinsurance agreement remain unliquidated and undischarged ten (10) days prior to the termination date, to withdraw amounts equal to

the assuming insurer's share of the liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer and exceed the amount of any reduced or replacement letter of credit, and deposit those amounts in a separate account in the name of the ceding insurer in a qualified United States financial institution apart from its general assets, in trust for such uses and purposes specified in 2. (A) of this subparagraph as may remain after withdrawal and for any period after the termination date.

(C) All of the provisions of this subparagraph shall be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

(ii) Nothing contained in subparagraph (i) of this paragraph shall preclude the ceding insurer and assuming insurer from providing for:

1. An interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to subparagraph (i) 2. of this paragraph; or
2. The return of any amounts drawn down on the letters of credit in excess of the actual amounts specified in this paragraph or any amounts that are subsequently determined not to be due.

(12) Other security. A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control.

(13) Reinsurance contract. Credit shall not be granted, and an asset or reduction from liability shall not be allowed, to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of subsection (2), (3), (4), (5), (6), (7), or (9) of this section or otherwise in compliance with section 41-515(2), Idaho Code, after the adoption of this section unless the reinsurance agreement:

(a) Includes a proper insolvency clause that stipulates reinsurance is payable directly to the liquidator or successor without diminution regardless of the status of the ceding company, pursuant to chapter 33 of this title;

(b) Includes a provision pursuant to section 41-515(2), Idaho Code, whereby the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give the court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decision of the court or panel; and

(c) Includes a proper reinsurance intermediary clause, if applicable, that stipulates the credit risk for the intermediary is carried by the assuming insurer.

(14) Contracts affected. All new and renewal reinsurance transactions entered into after the adoption of this section shall conform to the requirements of this section if credit is to be given to the ceding insurer for such reinsurance. Consistent with NAIC model regulation 786, various forms have been adopted and need to be received by the department to be compliant with this statute, including forms AR-1, CR-1, RJ-1, CR-F, and CR-S. These forms can be obtained from the department's website.

CHAPTER 68
(H.B. No. 120)

AN ACT

RELATING TO VETERANS; AMENDING SECTION 63-702, IDAHO CODE, TO REVISE PROVISIONS REGARDING CERTAIN PROPERTY TAX REDUCTIONS; AND AMENDING SECTION 63-705A, IDAHO CODE, TO REVISE PROVISIONS REGARDING CERTAIN TAX REDUCTIONS FOR DISABLED VETERANS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 63-702, Idaho Code, be, and the same is hereby amended to read as follows:

63-702. REDUCTION IN PROPERTY TAXES OR OCCUPANCY TAXES -- CLAIM IS PERSONAL -- EXCEPTIONS.

(1) (a) A property tax reduction shall be allowed pursuant to the provisions of sections 63-701 through 63-710, Idaho Code, if the owner occupies the residential improvements after January 1 but before April 15, and if no other property tax reductions or occupancy tax reductions under this section have been claimed by the owner for the same year.

(b) An occupancy tax reduction shall be allowed pursuant to the provisions of sections 63-701 through 63-710, Idaho Code, if the owner occupies the newly constructed residential improvements at any time during the year and has not filed for a property tax reduction or occupancy tax reduction under this section on any other homestead for the same year.

(c) (i) Notwithstanding any other provision of law, an owner may transfer his property tax reduction or occupancy tax reduction benefits upon changing his residence after April 15 if he meets all of the following requirements:

1. The owner is a veteran with a service-connected disability of one hundred percent (100%) or a disability rating based on individual unemployability rating that is compensated at the one hundred percent (100%) disability rate, as certified by the United States department of veterans affairs;

2. The owner has applied for and been granted the tax reduction benefit under this section before April 15;

3. After April 15 but before October 1, the qualified veteran has changed his homestead to a separate property that, but for the date requirements, would qualify for a reduction under this section; and

4. The owner has notified the state tax commission before October 1 of the desire to transfer his tax reduction benefits to the qualifying property.

(ii) The state tax commission must notify the appropriate county officials to transfer the tax reduction benefits to the property qualifying for the tax reduction.

(2) The right to file a claim under the provisions of sections 63-701 through 63-710, Idaho Code, shall be personal to the claimant and shall not survive his death except:

(a) Such right may be exercised on behalf of a living claimant by an agent authorized in writing to so act, by a guardian or other representative acting pursuant to judicial authority or by any person or entity described in section 63-711(3), Idaho Code. If a claimant dies after having filed a timely claim, the amount thereof shall be allowed to his personal representative, if one is appointed, or to surviving heirs or to the trust or other entity owning the property, as appropriate; and

(b) In the case of property owned by an estate, revocable trust, irrevocable trust, limited partnership, limited liability company or corporation, where the deceased person's widow or widower succeeds to the interest of the deceased person in that entity and occupies the dwelling as required in this chapter, the deceased owner's widow or widower, or any person or entity described in section 63-711(3), Idaho Code, on behalf of that widow or widower:

- (i) May file a claim on behalf of the deceased spouse if the deceased spouse qualified or would have qualified as a claimant under subsection (1) of this section in the year in which the claim is filed; or
- (ii) The widow or widower shall be deemed the owner of the property in any year after the year of the death of the spouse.

SECTION 2. That Section 63-705A, Idaho Code, be, and the same is hereby amended to read as follows:

63-705A. SPECIAL PROPERTY TAX OR OCCUPANCY TAX REDUCTION FOR DISABLED VETERANS. (1) For tax year 2020 and thereafter, regardless of any reduction received under section 63-705, Idaho Code, a veteran with a service-connected disability of one hundred percent (100%) or a disability rating based on individual unemployability rating that is compensated at the one hundred percent (100%) disability rate, as certified by the United States department of veterans affairs, shall receive a special reduction in property taxes or occupancy taxes levied on his homestead, as defined in section 63-701, Idaho Code. The special tax reduction shall be in the amount of one thousand three hundred twenty dollars (\$1,320) or for the amount of the veteran's actual property taxes or occupancy taxes, as applicable, whichever is less. If a veteran qualifies for tax reduction under both this section and section 63-705, Idaho Code, the combined tax reduction amount may not exceed the actual amount of the veteran's property taxes or occupancy taxes on his homestead.

(2) An applicant for a special property tax or occupancy tax reduction under this section shall comply with all procedural requirements set forth in sections 63-701 through 63-710, Idaho Code, with the exception of any income documentation and the exception of the date limitations as set forth in subsection (4) of this section.

(3) In the event that a qualified veteran applies for the special tax reduction in this section but then dies, the veteran's surviving spouse is entitled to receive the special tax reduction in that year and subsequent years, until such time as the surviving spouse remarries, dies, or no longer has property tax levied on the homestead.

(4) If a qualified veteran has applied for the special tax reduction under this section but after April 15 changes his homestead to a different property that would otherwise qualify for the special tax reduction under this section, the special tax reduction benefit is available for transfer. The state tax commission must notify the appropriate county officials to transfer the special tax reduction benefit to the qualifying property when all of the following conditions are met:

- (a) The qualified veteran has applied for and been granted the tax reduction benefit before April 15;
- (b) After April 15 but before October 1, the qualified veteran has changed his homestead to a separate property that would otherwise qualify for the special tax reduction authorized under this section; and
- (c) The qualified veteran notifies the state tax commission before October 1 of the desire to transfer the tax reduction benefits to the qualifying property.

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 17, 2021

CHAPTER 69
(H.B. No. 128)

AN ACT

RELATING TO VEHICLE TITLES; AMENDING SECTION 49-502, IDAHO CODE, TO REVISE AN EXEMPTION AND TO REVISE TERMINOLOGY.

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

SECTION 1. That Section 49-502, Idaho Code, be, and the same is hereby amended to read as follows:

49-502. DELIVERY OF CERTIFICATE OF TITLE UPON SALE OR DISPOSITION -- REASSIGNMENT BY DEALERS. (1) No person shall sell or otherwise dispose of a vehicle without delivery to the purchaser or transferee a certificate of title with an assignment as necessary to show title in the purchaser or transferee except as provided for in subsection (2) of this section.

(2) The owner shown on the records of the department of any vehicle that ~~is at least ten (10) years old~~ has a 2010 or older model year or has a model year at least twenty (20) years old when transferred after January 1, 2031, or is over sixteen thousand (16,000) pounds gross vehicle weight or has no odometer device, or the owner of any vessel whose that has a certificate of title that has become lost, mutilated or illegible, may dispose of such vehicle or vessel by delivering to the purchaser or transferee a completed application for duplicate title, together with an assignment as necessary to show title in the purchaser or transferee. To obtain a certificate of title, the purchaser or transferee shall pay the fees pursuant to section 49-202(2)(b), Idaho Code.

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

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

Approved March 17, 2021

CHAPTER 70
(H.B. No. 136)

AN ACT

RELATING TO ELECTIONS; AMENDING CHAPTER 14, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-1414, IDAHO CODE, TO PROVIDE THAT CERTAIN POLITICAL SUBDIVISIONS MAY APPLY TO HOLD AT-LARGE ELECTIONS.

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

SECTION 1. That Chapter 14, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 34-1414, Idaho Code, and to read as follows:

34-1414. ELECTION BY ZONES -- EXCEPTION FOR CERTAIN POLITICAL SUBDIVISIONS. Notwithstanding any other provision of law to the contrary, the governing body of any political subdivision that contains no more than one hundred forty (140) registered voters at the last general election may apply to the appropriate board of county commissioners for a determination that the election of the members of the political subdivision's governing body may be held at large instead of by district zones or subdistricts. The board of county commissioners shall make the determination whether to permit the election of the political subdivision's governing body to be elected at large and the county clerk shall provide notice of the board's decision to the affected electors at least ninety (90) days before the next general election. If the board of county commissioners approves the request for an at-large election, the approval shall apply to future elections until revoked by the board of county commissioners.

Approved March 17, 2021

CHAPTER 71
(H.B. No. 141, As Amended)

AN ACT

RELATING TO PUBLIC PROCUREMENT; AMENDING CHAPTER 23, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2332A, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING INTERAGENCY CONTRACTS WITH STATE INSTITUTIONS OF HIGHER EDUCATION; AMENDING SECTION 67-9219, IDAHO CODE, TO PROVIDE THAT CERTAIN CONTRACTS WILL BE CONSIDERED QUALIFYING CONTRACTS FOR PURPOSES OF A REPORT; AND AMENDING SECTION 67-9221, IDAHO CODE, TO PROVIDE THAT THERE WILL NOT BE NONCOMPETITIVE PROCUREMENT FROM STATE INSTITUTIONS OF HIGHER EDUCATION AND TO PROVIDE EXCEPTIONS.

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

SECTION 1. 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 67-2332A, Idaho Code, and to read as follows:

67-2332A. INTERAGENCY CONTRACTS WITH STATE INSTITUTIONS OF HIGHER EDUCATION. (1) Notwithstanding the provisions of section 67-2332, Idaho Code, no agency may enter into a noncompetitive contract with a state institution of higher education, unless authorized pursuant to section 67-9221, Idaho Code. Contracts between such entities must be competitively solicited pursuant to the provisions of the state procurement act, chapter 92, title

67, Idaho Code. However, the solicitation may limit competition to only the state institutions of higher education.

(2) The provisions of subsection (1) of this section do not apply to procurements of surplus property governed by other state or federal law.

(3) As used in this section:

(a) "Agency" has the same meaning as provided in section 67-9203(3), Idaho Code.

(b) "State institution of higher education" means Boise state university, Idaho state university, Lewis-Clark state college, or the university of Idaho.

SECTION 2. That Section 67-9219, Idaho Code, be, and the same is hereby amended to read as follows:

67-9219. CONTRACT OVERSIGHT. (1) Subject to approval of the director, the administrator shall formulate rules that establish policies and procedures relating to the administration, management, monitoring and oversight of contracts entered by an agency.

(2) Any officer, institution or entity that is excluded from the definition of "agency" under section 67-9203, Idaho Code, but that may enter contracts obligating the state, shall establish policies and procedures relating to the administration, management, monitoring and other oversight of such contracts.

(3) Policies and procedures established pursuant to subsection (1) or (2) of this section shall define the roles and responsibilities of those persons assigned to administer, manage, monitor or otherwise oversee state contracts.

(4) Each officer, agency, institution or entity that may enter contracts obligating the state, regardless of whether such officer, agency, institution or entity is included in the definition of "agency" under section 67-9203, Idaho Code, shall make an annual report to the legislature on all qualifying contracts entered into by the officer, agency, institution or entity during the previous year. The report shall be made on the first day of the regular legislative session and shall include the following information for each contract:

- (a) The amount;
- (b) The duration;
- (c) The parties; and
- (d) The subject.

(5) For purposes of this section, a qualifying contract is one entered into with a state institution of higher education pursuant to section 67-2332A, Idaho Code, or one valued at more than one million five hundred thousand dollars (\$1,500,000) over the duration of the contract and that is:

- (a) Awarded as a result of a sole source or other noncompetitive procurement pursuant to section 67-9221, Idaho Code;
- (b) A multiyear contract; or
- (c) Part of a multiple award.

SECTION 3. That Section 67-9221, Idaho Code, be, and the same is hereby amended to read as follows:

67-9221. NONCOMPETITIVE AND EMERGENCY PROCUREMENTS. (1) The administrator may allow noncompetitive procurements when:

- (a) A particular savings to the state may be obtained through the use of educational discounts, reverse public auctions or acquisition of federal surplus or excess property;
- (b) The property is available only from a sole source;
- (c) Immediate delivery of the property is required by public exigencies and the administrator has declared that an emergency exists; or

(d) Other circumstances justify a noncompetitive procurement in the opinion of the director and the administrator.

(2) Prior to procuring property from a sole source, the administrator shall post notice of a sole source procurement, unless the property is required for a life-threatening situation or a situation that is immediately detrimental to the public welfare or property. The notice shall be posted in a conspicuous manner as prescribed by rule.

(3) When the administrator has declared an emergency, payment vouchers may be issued on behalf of an agency without sufficient funds to make an emergency procurement. A payment voucher shall include a statement of justification for the emergency procurement.

(4) There will not be noncompetitive procurement from a state institution of higher education, as defined in section 67-2332A, Idaho Code, unless:

(a) The contract meets the following criteria:

(i) It is for less than ten thousand dollars (\$10,000); and

(ii) It is either not a contract for services or it is a contract for services related to lodging or events;

(b) The contract is between state institutions of higher education; or

(c) The administrator makes a written determination that the circumstances of the acquisition are consistent with the provisions of subsection (1) of this section.

Approved March 17, 2021

CHAPTER 72
(H.B. No. 170)

AN ACT

RELATING TO INCOME TAX; AMENDING SECTION 63-3022, IDAHO CODE, TO REVISE PROVISIONS REGARDING IDAHO TAXABLE INCOME; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

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

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

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

(c) (1) A net operating loss for any taxable year commencing on and after January 1, 2000, but before January 1, 2013, shall be a net operating loss carryback not to exceed a total of one hundred thousand dollars (\$100,000) to the two (2) immediately preceding taxable years. At the election of the taxpayer, the two (2) year carryback may be forgone and the loss subtracted from income received in taxable years arising in the next twenty (20) years succeeding the taxable year in which the loss arises in order until exhausted.

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

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

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

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

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

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

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

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

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

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

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

(i) In the case of a corporation, including any corporation included in a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, add any capital loss or passive loss deducted which loss was incurred during any year in which such corporation did not transact business in Idaho. However, do not add any capital loss deducted if a corporation, including any corporation in a group of corporations combined under subsection

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

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

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

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

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

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

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

(n) In the case of an individual for any tax period ending on or prior to December 31, 2016, deduct the amount contributed to a college savings program but not more than four thousand dollars (\$4,000) per tax year. In the case of an individual and for any tax period starting on or after January 1, 2017, deduct the amount contributed to a college savings program, but not more than six thousand dollars (\$6,000) per tax year. For those married and filing jointly, deduct the amount contributed to a college savings program, but not more than twice of that allowed for an individual. To be qualified for this deduction, the contribution must be made during the taxable year and made to an Idaho college savings program account as described in chapter 54, title 33, Idaho Code.

(o) In the case of an individual, add the amount of a nonqualified withdrawal from an individual trust account or savings account established pursuant to chapter 54, title 33, Idaho Code, less any amount of such nonqualified withdrawal included in the individual's federal gross income pursuant to section 529 of the Internal Revenue Code. The addition provided in this subsection is limited to contributions previously exempt from Idaho state income tax and earnings generated from the program as long as the earnings are not already included in federal adjusted gross income.

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

(q) Deduct any amount disallowed under section 461(1)(1)(B) of the Internal Revenue Code (relating to excess business losses) that is treated as part of the taxpayer's net operating loss carryforward for federal income tax purposes.

(r) Add the excess business losses under section 461(1) of the Internal Revenue Code, as required by section 63-3004, Idaho Code. The excess business losses may be carried forward and deducted as an Idaho net operating loss under section 63-3021, Idaho Code, successively over the next twenty (20) years succeeding the taxable year in which the loss arises until such losses are exhausted. Excess business losses shall not be carried back.

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, 2018.

Approved March 17, 2021

CHAPTER 73
(H.B. No. 208)

AN ACT

RELATING TO PHARMACISTS; AMENDING SECTION 54-1704, IDAHO CODE, TO REMOVE A PROVISION REGARDING FEDERAL FOOD AND DRUG ADMINISTRATION-APPROVED LABELING.

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) Agents for active immunization when prescribed for susceptible persons six (6) years of age or older for the protection from communicable disease; and
 - (b) ~~Drugs, drug categories, or devices that are prescribed in accordance with the product's federal food and drug administration-approved labeling and that are limited to conditions that:~~
 - (i) Do not require a new diagnosis;
 - (ii) Are minor and generally self-limiting;

(iii) Have a test that is used to guide diagnosis or clinical decision-making and are waived under the federal clinical laboratory improvement amendments of 1988; or

(iv) In the professional judgment of the pharmacist, threaten the health or safety of the patient should the prescription not be immediately dispensed. In such cases, only sufficient quantity may be provided until the patient is able to be seen by another provider.

The board shall not adopt any rules authorizing a pharmacist to prescribe a controlled drug, compounded drug or biological product.

Approved March 17, 2021

CHAPTER 74
(H.B. No. 224)

AN ACT

RELATING TO THE APPROPRIATION TO THE COMMISSION ON HISPANIC AFFAIRS FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE COMMISSION ON HISPANIC AFFAIRS FOR FISCAL YEAR 2022; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Commission on Hispanic Affairs the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General			
Fund	\$165,000	\$85,300	\$250,300
Miscellaneous Revenue			
Fund	61,700	86,400	148,100
Federal Grant			
Fund	<u>0</u>	<u>20,000</u>	<u>20,000</u>
TOTAL	\$226,700	\$191,700	\$418,400

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Commission on Hispanic Affairs is authorized no more than three (3.00) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 17, 2021

CHAPTER 75
(H.B. No. 225)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF ADMINISTRATION FOR THE DIVISION OF PUBLIC WORKS FOR FISCAL YEAR 2021; APPROPRIATING AND TRANSFERRING MONEYS FROM THE GENERAL FUND TO THE PERMANENT BUILDING FUND; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE DIVISION OF PUBLIC WORKS AND DIRECTING THE ALLOCATION OF FUNDS FOR SPECIFIC PROJECTS FOR FISCAL YEAR 2021; AND DECLARING AN EMERGENCY.

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

SECTION 1. CASH TRANSFER. There is hereby appropriated and the Office of the State Controller shall transfer \$89,217,500 from the General Fund to the Permanent Building Fund as soon as practicable for the period July 1, 2020, through June 30, 2021.

SECTION 2. In addition to the appropriation made in Section 1, Chapter 184, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Department of Administration for the Division of Public Works \$89,217,500 from the Permanent Building Fund to be expended for capital outlay for the period July 1, 2020, through June 30, 2021, for the following projects:

MAINTENANCE PROJECTS IN THE FOLLOWING AREAS:

Alteration and Repair Projects	<u>\$45,700,000</u>
TOTAL MAINTENANCE PROJECTS	\$45,700,000

CAPITAL PROJECTS:

IDJC St. Anthony Cottages	\$6,400,000
South Idaho Correctional Institution East Dorm	13,000,000
IDOC Connection and Intervention Station Housing	10,000,000
Military - Youth Challenge Academy Dorms	7,417,500
UI Parma Agricultural Research Campus	3,000,000
CEI Future Tech Facility	3,000,000
UI Seedling Production Greenhouses	<u>700,000</u>
TOTAL CAPITAL PROJECTS	\$43,517,500

GRAND TOTAL	\$89,217,500
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SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 17, 2021

CHAPTER 76
(H.B. No. 228)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR FISCAL YEAR 2022; 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 Juvenile Corrections the following amounts to be expended according to the designated programs and expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General					
Fund	\$3,126,700	\$1,254,900		\$60,000	\$4,441,600
Miscellaneous Revenue					
Fund	95,500	191,400			286,900
State Juvenile Corrections Center Endowment Income					
Fund	<u>0</u>	<u>0</u>	<u>\$280,500</u>	<u>0</u>	<u>280,500</u>
TOTAL	\$3,222,200	\$1,446,300	\$280,500	\$60,000	\$5,009,000
II. COMMUNITY, OPERATIONS, AND PROGRAM SERVICES:					
FROM:					
General					
Fund	\$1,218,800	\$170,500		\$4,620,200	\$6,009,500
Juvenile Corrections					
Fund		110,000			110,000
Juvenile Corrections - Cigarette/Tobacco Tax					
Fund				4,375,000	4,375,000
Miscellaneous Revenue					
Fund				327,000	327,000
Federal Grant					
Fund	<u>0</u>	<u>199,600</u>		<u>521,000</u>	<u>720,600</u>
TOTAL	\$1,218,800	\$480,100		\$9,843,200	\$11,542,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. INSTITUTIONS:					
FROM:					
General					
Fund	\$24,562,800	\$1,437,000		\$3,938,500	\$29,938,300
Miscellaneous Revenue					
Fund		238,600		460,000	698,600
State Juvenile Corrections Center Endowment Income					
Fund		1,073,800	\$291,400		1,365,200
Federal Grant					
Fund	<u>184,500</u>	<u>768,400</u>	<u>0</u>	<u>1,195,400</u>	<u>2,148,300</u>
TOTAL	\$24,747,300	\$3,517,800	\$291,400	\$5,593,900	\$34,150,400
IV. COMMUNITY-BASED SUBSTANCE ABUSE TREATMENT SERVICES:					
FROM:					
General					
Fund	\$192,300	\$134,200		\$2,680,800	\$3,007,300
GRAND TOTAL	\$29,380,600	\$5,578,400	\$571,900	\$18,177,900	\$53,708,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Juvenile Corrections is authorized no more than four hundred fourteen (414.00) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 17, 2021

CHAPTER 77
(H.B. No. 230)

AN ACT

RELATING TO THE APPROPRIATION TO THE STATE APPELLATE PUBLIC DEFENDER FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE STATE APPELLATE PUBLIC DEFENDER FOR FISCAL YEAR 2022; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING REQUIREMENTS FOR THE PAYMENT OF OUTSIDE COUNSEL COSTS; AND PROVIDING REQUIREMENTS FOR THE PAYMENT OF CAPITAL REPRESENTATION COSTS.

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

SECTION 1. There is hereby appropriated to the State Appellate Public Defender the following amounts to be expended according to the designated programs and expense classes from the listed fund for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. OFFICE OF THE STATE APPELLATE PUBLIC DEFENDER:			
FROM:			
General			
Fund	\$2,651,700	\$277,800	\$2,929,500
II. CAPITAL AND CONFLICT REPRESENTATION:			
FROM:			
General			
Fund		\$242,100	\$242,100
GRAND TOTAL	\$2,651,700	\$519,900	\$3,171,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the State Appellate Public Defender is authorized no more than twenty-five (25.00) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. OUTSIDE COUNSEL COSTS. Notwithstanding any other provision of law to the contrary, of the amount appropriated in Section 1 of this act for the Capital and Conflict Representation Program, \$165,900 from the General Fund, or so much thereof as is necessary, shall be used solely to pay outside counsel for noncapital appeals in which a concurrent conflict of interest is identified and only to the extent such costs are exclusive of, and can be identified and accounted for separately and distinctly from, capital representation costs. Any remaining unexpended and unencumbered amounts not so used shall revert to the General Fund.

SECTION 4. CAPITAL REPRESENTATION COSTS. Notwithstanding any other provision of law to the contrary, of the amount appropriated in Section 1 of this act for the Capital and Conflict Representation Program, \$76,200 from the General Fund, or so much thereof as is necessary, shall be used solely for costs directly related to the provision of representation in capital cases and only to the extent such costs are exclusive of, and can be identified and accounted for separately and distinctly from, outside counsel costs of noncapital appeals. Any remaining unexpended and unencumbered amounts not so used shall revert to the General Fund.

Approved March 17, 2021

CHAPTER 78
(H.B. No. 261)

AN ACT

RELATING TO THE APPROPRIATION TO THE COMMISSION OF PARDONS AND PAROLE FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE COMMISSION OF PARDONS AND PAROLE FOR FISCAL YEAR 2022; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING REAPPROPRIATION AUTHORITY.

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

SECTION 1. There is hereby appropriated to the Commission of Pardons and Parole the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General			
Fund	\$2,873,500	\$674,200	\$3,547,700
Miscellaneous Revenue			
Fund		70,700	70,700
Federal COVID-19 Relief			
Fund	<u>0</u>	<u>50,000</u>	<u>50,000</u>
TOTAL	\$2,873,500	\$794,900	\$3,668,400

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Commission of Pardons and Parole is authorized no more than thirty-seven (37.00) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Commission of Pardons and Parole any unexpended and unencumbered balances appropriated to the Commission of Pardons and Parole from the Federal COVID-19 Relief Fund for fiscal year 2021, in an amount not to exceed \$20,000, to be used for nonrecurring expenditures related to parole hearing minute-taking for the period July 1, 2021, through June 30, 2022. The Office of the State Controller shall confirm the reappropriation amount, by fund, expense class, and program, with the Legislative Services Office prior to processing the reappropriation authorized herein.

Approved March 17, 2021

CHAPTER 79
(H.B. No. 263)

AN ACT

RELATING TO THE APPROPRIATION TO THE WORKFORCE DEVELOPMENT COUNCIL FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE WORKFORCE DEVELOPMENT COUNCIL FOR FISCAL YEAR 2022; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING REAPPROPRIATION AUTHORITY.

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

SECTION 1. There is hereby appropriated to the Workforce Development Council the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
Workforce Development Training				
Fund	\$403,100	\$352,400	\$7,684,500	\$8,440,000
Federal Grant				
Fund	<u>181,300</u>	<u>80,000</u>	<u>636,500</u>	<u>897,800</u>
TOTAL	\$584,400	\$432,400	\$8,321,000	\$9,337,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Workforce Development Council is authorized no more than six (6.00) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Workforce Development Council any unexpended and unencumbered balances appropriated or reappropriated to the Workforce Development Council from the Workforce Development Training Fund for grants for fiscal year 2021, in an amount not to exceed \$4,315,500, to be used for nonrecurring expenditures related to grants for the period July 1, 2021, through June 30, 2022. The Office of the State Controller shall confirm the reappropriation amount, by fund, expense class, and program, with the Legislative Services Office prior to processing the reappropriation authorized herein.

Approved March 17, 2021

CHAPTER 80
(H.B. No. 269)

AN ACT

RELATING TO THE APPROPRIATION TO THE PUBLIC DEFENSE COMMISSION FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE PUBLIC DEFENSE COMMISSION FOR FISCAL YEAR 2022; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Public Defense Commission the following amounts to be expended according to the designated expense classes from the General Fund for the period July 1, 2021, through June 30, 2022:

FOR:

Personnel Costs	\$733,500
Operating Expenditures	261,400
Trustee and Benefit Payments	<u>10,295,900</u>
TOTAL	\$11,290,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Public Defense Commission is authorized no more than seven (7.00) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 17, 2021

CHAPTER 81
(H.B. No. 270)

AN ACT

RELATING TO THE APPROPRIATION TO THE COMMISSION ON THE ARTS FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE COMMISSION ON THE ARTS FOR FISCAL YEAR 2022; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Commission on the Arts the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$372,600	\$168,100	\$18,000	\$324,700	\$883,400
Miscellaneous Revenue					
Fund		89,800		16,500	106,300
Federal Grant					
Fund	<u>428,200</u>	<u>193,500</u>	<u>27,000</u>	<u>450,200</u>	<u>1,098,900</u>
TOTAL	\$800,800	\$451,400	\$45,000	\$791,400	\$2,088,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Commission on the Arts is authorized no more than ten (10.00) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 17, 2021

CHAPTER 82
(S.B. No. 1010)

AN ACT

RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-102, IDAHO CODE, TO REMOVE A DEFINITION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 72-436, IDAHO CODE, TO REVISE PROVISIONS REGARDING BURIAL EXPENSES; AMENDING SECTION 20-245, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 72-438, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND AMENDING SECTION 72-451, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES.

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

SECTION 1. That Section 72-102, Idaho Code, be, and the same is hereby amended to read as follows:

72-102. DEFINITIONS. Words and terms used in the worker's compensation law, unless the context otherwise requires, are defined in the subsections which follow:

(1) "Alien" means a person who is not a citizen, a national or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

(2) "Balance billing" means charging, billing, or otherwise attempting to collect directly from an injured employee payment for medical services in excess of amounts allowable in compensable claims as provided by rules promulgated by the commission pursuant to section 72-508, Idaho Code.

(3) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this law.

~~(4) "Burial expenses" means a sum, not to exceed six thousand dollars (\$6,000) for funeral and burial or cremation, together with the actual expenses of transportation of the employee's body to his place of residence within the United States or Canada.~~

~~(5) "Commission" means the industrial commission.~~

(65) "Community service worker" means:

(a) Any person who has been convicted of a criminal offense, any juvenile who has been found to be within the purview of chapter 5, title 20, Idaho Code, and who has been informally diverted under the provisions of section 20-511, Idaho Code, or any person or youth who has been diverted from the criminal or juvenile justice system and who performs a public service for any department, institution, office, college, university, authority, division, board, bureau, commission, council, or other entity of the state, or any city, county, school district, irrigation district or other taxing district authorized to levy a tax or an assessment or any other political subdivision or any private not-for-profit agency which has elected worker's compensation insurance coverage for such person; or

(b) Parolees under department of correction supervision, probationers under court order or department of correction supervision and offender residents of community work centers under the direction or order of the board of correction who are performing public service or community service work for any of the entities specified in paragraph (a) of this subsection other than the department of correction.

(76) "Compensation" used collectively means any or all of the income benefits and the medical and related benefits and medical services.

(87) "Custom farmer" means a person who contracts to supply operated equipment to a proprietor of a farm for the purpose of performing part or all

of the activities related to raising or harvesting agricultural or horticultural commodities.

(98) "Death" means death resulting from an injury or occupational disease.

(109) Dependency limitations.

(a) "Adopted" and "adoption" include cases where persons are treated as adopted as well as those of legal adoption unless legal adoption is specifically provided.

(b) "Brother" and "sister" include stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption.

(c) "Child" includes adopted children, posthumous children, and acknowledged illegitimate children, but does not include stepchildren unless actually dependent.

(d) "Grandchild" includes children of legally adopted children and children of stepchildren, but does not include stepchildren of children, stepchildren of stepchildren, or stepchildren of adopted children unless actually dependent.

(e) "Parent" includes stepparents and parents by adoption.

(f) "Grandparent" includes parents of parents by adoption, but does not include parents of stepparents, stepparents of parents, or stepparents of stepparents.

(110) "Disability," for purposes of determining total or partial temporary disability income benefits, means a decrease in wage-earning capacity due to injury or occupational disease, as such capacity is affected by the medical factor of physical impairment, and by pertinent nonmedical factors as provided in section 72-430, Idaho Code.

(121) "Employee" is synonymous with "workman" and means any person who has entered into the employment of, or who works under contract of service or apprenticeship with, an employer. It does not include any person engaged in any of the excepted employments enumerated in section 72-212, Idaho Code, unless an election as provided in section 72-213, Idaho Code, has been filed. It does, however, include a volunteer firefighter for purposes of section 72-438(12) and (14), Idaho Code. Any reference to an employee who has been injured shall, where the employee is dead, include a reference to his dependents as herein defined, if the context so requires, or, where the employee is a minor or incompetent, to his committee or guardian or next friend.

(132) (a) "Employer" means any person who has expressly or impliedly hired or contracted the services of another. It includes contractors and subcontractors. It includes the owner or lessee of premises, or other person who is virtually the proprietor or operator of the business there carried on, but who, by reason of there being an independent contractor or for any other reason, is not the direct employer of the workers there employed. It also includes, for purposes of section 72-438(12) and (14), Idaho Code, a municipality, village, county or fire district that utilizes the services of volunteer firefighters. If the employer is secured, it means his surety so far as applicable.

(b) "Professional employer" means a professional employer as defined in chapter 24, title 44, Idaho Code.

(c) "Temporary employer" means the employer of temporary employees as defined in section 44-2403(7), Idaho Code.

(d) "Work site employer" means the client of the temporary or professional employer with whom a worker has been placed.

(143) "Farm labor contractor" means any person or his agent or subcontractor who, for a fee, recruits and employs farmworkers and performs any farm labor contracting activity.

(154) "Gender and number." The masculine gender includes the feminine and neuter; "husband" or "wife" includes "spouse"; the singular number includes plural and the plural the singular.

(165) "Income benefits" means payments provided for or made under the provisions of this law to the injured employee disabled by an injury or occupational disease, or his dependents in case of death, excluding medical and related benefits.

(176) "Independent contractor" means any person who renders service for a specified recompense for a specified result, under the right to control or actual control of his principal as to the result of his work only and not as to the means by which such result is accomplished. For the purposes of worker's compensation law, a custom farmer is considered to be an independent contractor.

(187) "Injury" and "accident."

(a) "Injury" means a personal injury caused by an accident arising out of and in the course of any employment covered by the worker's compensation law.

(b) "Accident" means an unexpected, undesigned, and unlooked for mishap, or untoward event, connected with the industry in which it occurs, and which can be reasonably located as to time when and place where it occurred, causing an injury.

(c) "Injury" and "personal injury" shall be construed to include only an injury caused by an accident, which results in violence to the physical structure of the body. The terms shall in no case be construed to include an occupational disease and only such nonoccupational diseases as result directly from an injury.

(198) "Manifestation" means the time when an employee knows that he has an occupational disease, or whenever a qualified physician shall inform the injured worker that he has an occupational disease.

(2019) "Medical and related benefits" means payments provided for or made for medical, hospital, burial and other services as provided in this law other than income benefits.

(210) "Medical services" means medical, surgical, dental or other attendance or treatment, nurse and hospital service, medicines, apparatus, appliances, prostheses, and related services, facilities and supplies.

(221) "Occupational diseases."

(a) "Occupational disease" means a disease due to the nature of an employment in which the hazards of such disease actually exist, are characteristic of, and peculiar to the trade, occupation, process, or employment, but shall not include psychological injuries, disorders or conditions unless the conditions set forth in section 72-451, Idaho Code, are met.

(b) "Contracted" and "incurred," when referring to an occupational disease, shall be deemed the equivalent of the term "arising out of and in the course of" employment.

(c) "Disablement," except in the case of silicosis, means the event of an employee's becoming actually and totally incapacitated because of an occupational disease from performing his work in the last occupation in which injuriously exposed to the hazards of such disease; and "disability" means the state of being so incapacitated.

(d) "Disablement," in the case of silicosis, means the event of first becoming actually incapacitated, because of such disease, from performing any work in any remunerative employment; and "disability" means the state of being so incapacitated.

(e) "Silicosis" means the characteristic fibrotic condition of the lungs caused by the inhalation of silicon dioxide (SiO₂) dust.

(232) "Outworker" means a person to whom articles or materials are furnished to be treated in any way on premises not under the control or management of the person who furnished them.

(243) "Person" means the state or any political subdivision thereof, or any individual, partnership, firm, association, trust, corporation, including the state insurance fund, or any representative thereof.

(254) "Physician" means medical physicians and surgeons, ophthalmologists, otorhinolaryngologists, dentists, osteopaths, osteopathic physicians and surgeons, optometrists, podiatrists, chiropractic physicians, and members of any other healing profession licensed or authorized by the statutes of this state to practice such profession within the scope of their practice as defined by the statutes of this state and as authorized by their licenses.

(265) "Provider" means any person, firm, corporation, partnership, association, agency, institution, or other legal entity providing any kind of medical services related to the treatment of an injured employee which are compensable under Idaho's worker's compensation law.

(276) "Secretary" means the secretary of the commission.

(287) "Self-insurer" means an employer who has been authorized under the provisions of this law to carry his own liability to his employees covered by this law.

(298) "State" includes any state, district, commonwealth, zone or territory of the United States or any province of Canada.

(3029) "Surety" means any insurer authorized to insure or guarantee payment of worker's compensation liability of employers in any state; it also includes the state insurance fund, a self-insurer and an inter-insurance exchange.

(310) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico and the territories of the United States.

(321) "Volunteer emergency responder" means a firefighter or peace officer, or publicly employed certified personnel who is a bona fide member of a legally organized law enforcement agency, a legally organized fire department or a licensed emergency medical service provider organization who contributes services.

(332) "Wages" and "wage-earning capacity" prior to the injury or disablement from occupational disease mean the employee's money payments for services as calculated under section 72-419, Idaho Code, and shall additionally include the reasonable market value of board, rent, housing, lodging, fuel, and other advantages which can be estimated in money which the employee receives from the employer as part of his remuneration, and gratuities received in the course of employment from others than the employer. "Wages" shall not include sums which the employer has paid to the employee to cover any special expenses entailed on him by the nature of his employment.

(343) "Wages" and "wage-earning capacity" after the injury or disablement from occupational disease shall be presumed to be the actual earnings after the injury or disablement, which presumption may be overcome by showing that those earnings do not fairly and reasonably represent wage-earning capacity; in such a case, wage-earning capacity shall be determined in the light of all factors and circumstances which may affect the worker's capacity to earn wages.

(354) "Work experience student" means any person enrolled in the public school districts or public institutions of higher education of this state and who, as part of his instruction, is enrolled in a class or program for academic credit and for which the student is employed by, or works for, a private or governmental entity. The student need not receive wages from the private or governmental entity in order to be classified as a work experience student.

(365) "Worker's compensation law" or "workmen's compensation law" means and includes the worker's compensation law of this state and any like or similar law of any state, United States, territory, or province of Canada.

SECTION 2. That Section 72-436, Idaho Code, be, and the same is hereby amended to read as follows:

72-436. BURIAL EXPENSES. If death results from the injury within four (4) years, the employer shall pay to the person entitled to compensation, or if there is none then to the personal representative of the deceased employee, ~~the actual amount of burial expenses as defined in section 72-102(4), Idaho Code~~ a sum not to exceed six thousand dollars (\$6,000) for funeral and burial or cremation, together with the actual expenses of transportation of the employee's body to his place of residence within the United States or Canada.

SECTION 3. That Section 20-245, Idaho Code, be, and the same is hereby amended to read as follows:

20-245. OFFENDER LABOR ON STATE AND COMMUNITY SERVICE PROJECTS. (1) Offender labor on state projects. The state board of correction shall have the authority to use, under such rules as they may prescribe, the labor of offenders either within or without the walls of the penitentiary and on all public works done under the direct control of the state; that offender labor under control of the state board of correction shall manufacture and repair state highway signs, except for highways and projects where federal regulations would prohibit the use of signs so manufactured; provided, that so far as practicable any manufacture conducted within the walls shall be in connection with metal motor license plates, road or street signs furnished by the state or used by its municipalities, wearing apparel, articles and containers, for state use in the various departments or institutions of the state not for sale upon the open market. When any product produced by the offender shall be used by any department or other institution of the state, the current appropriation shall receive from such department or institution such reimbursement therefor as may be fixed by the state board of correction with the approval of the state board of examiners.

(2) Offender labor on community service projects. The state board of correction shall have the authority to assign parolees under department of correction supervision, probationers under court order or department of correction supervision and offender residents of community work centers under the direction or order of the board of correction, as community service workers as set forth in section 72-102(65), Idaho Code. The state board of correction shall have the authority to charge offenders performing community service work an hourly fee in an amount to be determined by the state insurance fund, to be remitted to the state insurance fund for purposes of providing worker's compensation insurance for parolees, probationers or community work center residents assigned as community service workers.

SECTION 4. That Section 72-438, Idaho Code, be, and the same is hereby amended to read as follows:

72-438. OCCUPATIONAL DISEASES. Compensation shall be payable for disability or death of an employee resulting from the following occupational diseases:

(1) Poisoning by lead, mercury, arsenic, zinc, or manganese, their preparations or compounds in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(2) Carbon monoxide poisoning or chlorine poisoning in any process or occupation involving direct exposure to carbon monoxide or chlorine in buildings, sheds, or enclosed places.

(3) Poisoning by methanol, carbon bisulphide, hydrocarbon distillates (naphthas and others) or halogenated hydrocarbons, or any preparations containing these chemicals or any of them, in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(4) Poisoning by benzol or by nitro, amido, or amino-derivatives of benzol (dinitro-benzol, anilin and others) or their preparations or

compounds in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(5) Glanders in the care or handling of any equine animal or the carcass of any such animal.

(6) Radium poisoning by or disability due to radioactive properties of substances or to roentgen ray (X-ray) in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(7) Poisoning by or ulceration from chromic acid or bichromate of ammonium, potassium, or sodium or their preparations, or phosphorus preparations or compounds, in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(8) Ulceration due to tar, pitch, bitumen, mineral oil, or paraffin, or any compound product, or residue of any of these substances, in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(9) Dermatitis venenata, that is, infection or inflammation of the skin, furunculosis excepted, due to oils, cutting compounds, lubricants, liquids, fumes, gases, or vapors in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(10) Anthrax occurring in any occupation involving the handling of or exposure to wool, hair, bristles, hides, skins, or bodies of animals either alive or dead.

(11) Silicosis in any occupation involving direct contact with, handling of, or exposure to dust of silicon dioxide (SiO_2).

(12) Cardiovascular or pulmonary or respiratory diseases of a firefighter, employed by or volunteering for a municipality, village or fire district as a regular member of a lawfully established fire department, caused by overexertion in times of stress or danger or by proximate exposure or by cumulative exposure over a period of four (4) years or more to heat, smoke, chemical fumes or other toxic gases arising directly out of, and in the course of, his employment.

(13) Acquired immunodeficiency syndrome (AIDS), AIDS-related complexes (ARC), other manifestations of human immunodeficiency virus (HIV) infections, infectious hepatitis viruses and tuberculosis in any occupation involving exposure to human blood or body fluids.

(14) Firefighter occupational diseases:

(a) As used in this subsection, "firefighter" means an employee whose primary duty is that of extinguishing or investigating fires as part of a fire district, fire department or fire brigade.

(b) If a firefighter is diagnosed with one (1) or more of the following diseases after the period of employment indicated in subparagraphs (i) through (xi) of this paragraph, and the disease was not revealed during an initial employment medical screening examination that was performed according to such standards and conditions as may be established at the sole discretion of the governing board having authority over a given fire district, fire department, or fire brigade, then the disease shall be presumed to be proximately caused by the firefighter's employment as a firefighter:

(i) Brain cancer after ten (10) years;

(ii) Bladder cancer after twelve (12) years;

(iii) Kidney cancer after fifteen (15) years;

(iv) Colorectal cancer after ten (10) years;

(v) Non-Hodgkin's lymphoma after fifteen (15) years;

(vi) Leukemia after five (5) years;

(vii) Mesothelioma after ten (10) years;

(viii) Testicular cancer after five (5) years if diagnosed before the age of forty (40) years with no evidence of anabolic steroids or human growth hormone use;

- (ix) Breast cancer after five (5) years if diagnosed before the age of forty (40) years without a breast cancer 1 or breast cancer 2 genetic predisposition to breast cancer;
- (x) Esophageal cancer after ten (10) years; and
- (xi) Multiple myeloma after fifteen (15) years.

(c) The presumption created in this subsection may be overcome by substantial evidence to the contrary. If the presumption is overcome by substantial evidence, then the firefighter or the beneficiaries must prove that the firefighter's disease was caused by his or her duties of employment.

(d) The presumption created in this subsection shall not preclude a firefighter from demonstrating a causal connection between employment and disease or injury by a preponderance of evidence before the Idaho industrial commission.

(e) The presumption created in this subsection shall not apply to any specified disease diagnosed more than ten (10) years following the last date on which the firefighter actually worked as a firefighter as defined in paragraph (a) of this subsection. Nor shall the presumption apply if a firefighter or a firefighter's cohabitant has regularly and habitually used tobacco products for ten (10) or more years prior to the diagnosis.

(f) The periods of employment described in paragraph (b) of this subsection refer to periods of employment within the state of Idaho.

Recognizing that additional toxic or harmful substances or matter are continually being discovered and used or misused, the above enumerated occupational diseases are not intended to be exclusive, but such additional diseases shall not include hazards that are common to the public in general and that are not within the meaning of section 72-102(221) (a), Idaho Code, and the diseases enumerated in subsection (12) of this section pertaining to firefighters shall not be subject to the limitations prescribed in section 72-439, Idaho Code.

SECTION 5. That Section 72-451, Idaho Code, be, and the same is hereby amended to read as follows:

72-451. PSYCHOLOGICAL ACCIDENTS AND INJURIES. (1) Psychological injuries, disorders or conditions shall not be compensated under this title, unless the following conditions are met:

(a) Such injuries of any kind or nature emanating from the workplace shall be compensated only if caused by accident and physical injury as defined in section 72-102(187) (a) through (187) (c), Idaho Code, or only if accompanying an occupational disease with resultant physical injury, except that a psychological mishap or event may constitute an accident where:

(i) It results in resultant physical injury as long as the psychological mishap or event meets the other criteria of this section;

(ii) It is readily recognized and identifiable as having occurred in the workplace; and

(iii) It must be the product of a sudden and extraordinary event;

(b) No compensation shall be paid for such injuries arising from conditions generally inherent in every working situation or from a personnel-related action including, but not limited to, disciplinary action, changes in duty, job evaluation or employment termination;

(c) Such accident and injury must be the predominant cause as compared to all other causes combined of any consequence for which benefits are claimed under this section;

(d) Where psychological causes or injuries are recognized by this section, such causes or injuries must exist in a real and objective sense;

(e) Any permanent impairment or permanent disability for psychological injury recognizable under the Idaho worker's compensation law must be based on a condition sufficient to constitute a diagnosis using the terminology and criteria of the American psychiatric association's diagnostic and statistical manual of mental disorders, third edition revised, or any successor manual promulgated by the American psychiatric association, and must be made by a psychologist or psychiatrist duly licensed to practice in the jurisdiction in which treatment is rendered; and

(f) Clear and convincing evidence that the psychological injuries arose out of and in the course of the employment from an accident or occupational disease as contemplated in this section is required.

(2) Nothing in subsection (1) of this section shall be construed as allowing compensation for psychological injuries from psychological causes without accompanying physical injury.

(3) The provisions of subsection (1) of this section shall apply to accidents and injuries occurring on or after July 1, 1994, and to causes of action for benefits accruing on or after July 1, 1994, notwithstanding that the original worker's compensation claim may have occurred prior to July 1, 1994.

(4) Notwithstanding subsection (1) of this section, post-traumatic stress injury suffered by a first responder is a compensable injury or occupational disease when the following conditions are met:

(a) The first responder is examined and subsequently diagnosed with post-traumatic stress injury by a psychologist, a psychiatrist duly licensed to practice in the jurisdiction where treatment is rendered, or a counselor trained in post-traumatic stress injury; and

(b) Clear and convincing evidence indicates that the post-traumatic stress injury was caused by an event or events arising out of and in the course of the first responder's employment.

(5) No compensation shall be paid for such injuries described in subsection (2) of this section arising from a personnel-related action including, but not limited to, disciplinary action, changes in duty, job evaluation, or employment termination.

(6) As used in subsection (4) of this section:

(a) "Post-traumatic stress injury" means a disorder that meets the diagnostic criteria for post-traumatic stress disorder or post-traumatic stress injury specified by the American psychiatric association's diagnostic and statistical manual of mental disorders, fifth edition revised, or any successor manual promulgated by the American psychiatric association.

(b) "First responder" means:

(i) A peace officer as defined in section 19-5101(d), Idaho Code, when employed by a city, county, or the Idaho state police;

(ii) A firefighter as defined in sections 59-1391(f) and 72-1403(A), Idaho Code;

(iii) A volunteer emergency responder as defined in section 72-102(321), Idaho Code;

(iv) An emergency medical service provider, or EMS provider, certified by the department of health and welfare pursuant to sections 56-1011 through 56-1018B, Idaho Code, and an ambulance-based clinician as defined in the rules governing emergency medical services as adopted by the department of health and welfare; and

(v) An emergency communications officer as defined in section 19-5101(f), Idaho Code.

(7) Subsections (4) through (6) of this section are effective for first responders with dates of injury or manifestations of occupational disease on or after July 1, 2019.

Approved March 17, 2021

CHAPTER 83
(S.B. No. 1009)

AN ACT

RELATING TO THE STATE FIRE MARSHAL; AMENDING SECTION 59-1302, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 72-451, IDAHO CODE, TO REVISE A CODE REFERENCE.

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

SECTION 1. That Section 59-1302, Idaho Code, be, and the same is hereby amended to read as follows:

59-1302. DEFINITIONS. (1) As used in this chapter, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context.

(2) "Active member" means any employee who is not establishing the right to receive benefits through his or her employer's participation in any other retirement system established for Idaho public employees, if such participation is mandated by applicable Idaho statutes other than this chapter. In no case will an employee be entitled to any benefit under this chapter for public service if such employee is establishing retirement benefit entitlements by other Idaho statutes or federal statutes other than military service or social security for that same service.

(3) "Accumulated contributions" means the sum of amounts contributed by a member of the system, together with regular interest credit thereon.

(4) "Actuarial equivalent" means a benefit equal in value to another benefit, when computed ~~upon~~ on the basis of the actuarial tables in use by the system.

(5) "Actuarial tables" means such tables as shall have been adopted by the board in accordance with recommendations of the actuary.

(5A) "Alternate payee" means a spouse or former spouse of a member who is recognized by an approved domestic retirement order as having a right to all or a portion of the accrued benefits in the retirement system with respect to such member.

(5B) "Approved domestic retirement order" means a domestic retirement order that creates or recognizes the existence of an alternate payee's right or assigns to an alternate payee the right to all or a portion of the accrued benefits of a member under the retirement system, that directs the system to establish a segregated account or disburse benefits to an alternate payee, and that the executive director of the retirement system has determined meets the requirements of sections 59-1319 and 59-1320, Idaho Code.

(5C) "Average monthly salary" means the member's average salary during the base period as calculated pursuant to rules adopted by the retirement board.

(5D) (a) "Base period" means the period of fifty-four (54) consecutive calendar months during which the member earned:

- (i) The highest average salary; and
- (ii) Membership service of at least one-half (1/2) the number of months in the period, excluding months of service attributable to:
 - A. Military service;
 - B. Service qualifying as minimum benefit pursuant to section 59-1342(5), Idaho Code; and
 - C. Worker's compensation income benefits.

(b) Effective October 1, 1993, the consecutive calendar months shall be forty-eight (48). Effective October 1, 1994, the consecutive calendar months shall be forty-two (42).

(c) Entitlement to a base period shall not vest until the effective date of that base period. The retirement benefits shall be calculated on the amounts, terms and conditions in effect at the date of the final contribution by the member.

(d) If no base period exists for a member, the member's average monthly salary shall be determined by the board, using standards not inconsistent with those established in this subsection.

(e) To assure equitable treatment for all members, salary increments inconsistent with usual compensation patterns may be disallowed by the board in determining average monthly salary and base period.

(6) "Beneficiary" means the person who is nominated by the written designation of a member, duly executed and filed with the board, to receive the death benefit.

(7) "Calendar year" means twelve (12) calendar months commencing on the first day of January.

(7A) "Contingent annuitant" means the person designated by a member under certain retirement options to receive benefit payments upon the death of the member. The person so designated must be born and living on the effective date of retirement.

(8) "Credited service" means the aggregate of membership service, prior service and disabled service.

(9) "Date of establishment" means July 1, 1965, or a later date established by the board or statute.

(10) "Death benefit" means the amount, if any, payable upon the death of a member.

(11) "Disability retirement allowance" means the periodic payment becoming payable to a member who meets all applicable eligibility requirements for disability retirement.

(12) "Disabled" means:

(a) That the member is prevented from engaging in any occupation or employment for remuneration or profit as a result of bodily injury or disease, either occupational or nonoccupational in cause, but excluding disabilities resulting from service in the armed forces of any country other than the United States, or from an intentionally self-inflicted injury; and

(b) That the member will likely remain so disabled permanently and continuously during the remainder of the member's life.

It is not necessary that a person be absolutely helpless or entirely unable to do anything worthy of compensation to be considered disabled. If the person is so disabled that substantially all the avenues of employment are reasonably closed to the person, that condition is within the meaning of "disabled." In evaluating whether a person is disabled, medical factors and non-medical factors including, but not limited to, education, economic and social environment, training and usable skills may be considered.

Refusal to submit to a medical examination ordered by the board before the commencement of a disability retirement allowance or at any reasonable time thereafter shall constitute proof that the member is not disabled. The board shall be empowered to select for such medical examination one (1) or more physicians or surgeons who are licensed to practice medicine and per-

form surgery. The fees and expenses of such examination shall be paid from the administration account of the fund. No member shall be required to undergo such examination more often than once each year after he has received a disability retirement allowance continuously for two (2) years.

(12A) "Disabled service" means the total number of months elapsing from the first day of the month next succeeding the final contribution of a member prior to receiving a disability retirement allowance to the first day of the month following the date of termination of such disability retirement allowance. During such period, the member shall remain classified in the membership category held during the month of final contribution. The total number of months of disabled service credited for a person first becoming disabled after the effective date of this chapter shall not exceed the excess, if any, of three hundred sixty (360) over the total number of months of prior service and membership service.

(12B) "Domestic retirement order" means any judgment, decree, or order, including approval of a property settlement agreement that relates to the provision of marital property rights to a spouse or former spouse of a member, and is made pursuant to a domestic relations law, including the community property law of the state of Idaho or of another state.

(13) "Early retirement allowance" means the periodic payment becoming payable to a member who meets all applicable eligibility requirements for early retirement.

(14) (A) "Employee" means:

(a) Any person who normally works twenty (20) hours or more per week for an employer, or a schoolteacher who works half-time or more for an employer and who receives salary for services rendered for such employer;

(b) Elected officials or appointed officials of an employer who receive a salary;

(c) A person who is separated from service with fewer than five (5) consecutive months of employment and who is reemployed or reinstated by the same employer within thirty (30) days; or

(d) A person receiving differential wage payments as defined in 26 U.S.C. 3401(h) on or after July 1, 2009. A differential wage payment generally refers to an employer payment to an employee called to active duty in the uniformed services for more than thirty (30) days that represents all or a portion of the compensation he would have received from the employer if he were performing services for the employer.

(B) "Employee" does not include employment as:

(a) A person rendering service to an employer in the capacity of an independent business, trade or profession; or

(b) A person whose employment with any employer does not total five (5) consecutive months; or

(c) A person provided sheltered employment or made-work by a public employer in an employment or industries program maintained for the benefit of such person; or

(d) An inmate of a state institution, whether or not receiving compensation for services performed for the institution; or

(e) A student enrolled in an undergraduate, graduate, or ~~professional-technical~~ career technical program at and employed by a state college, university, community college or ~~professional-technical~~ career technical center when such employment is predicated on student status; or

(f) A person making contributions to the director of the office of personnel management under the United States civil service system retirement act except that a person who receives separate remuneration for work currently performed for an employer and the United States government may elect to be a member of the retirement system in accordance with rules of the board; or

(g) A person not under contract with a school district or charter school, who on a day-to-day basis works as a substitute teacher replac-

ing a contracted teacher and is paid a substitute wage as established by district policy or who on a day-to-day basis works as a substitute assistant replacing a staff instruction assistant or a staff library assistant and is paid a substitute wage as established by district policy; or

(h) A person occupying a position that does not exceed eight (8) consecutive months in a calendar year with a city, county, irrigation district, cemetery district or mosquito abatement district when the city, county, irrigation district, cemetery district or mosquito abatement district has certified, in writing to the system, the position is: (i) seasonal or casual; and (ii) affected by weather, including parks, golf course positions and irrigation positions; or

(i) A person in a position that: (i) is eligible for participation in an optional retirement program established under section 33-107A or 33-107B, Idaho Code; or (ii) would be eligible for participation in an optional retirement program established under section 33-107A or 33-107B, Idaho Code, if the person was not working less than half-time or fewer than twenty (20) hours per week.

(15) "Employer" means the state of Idaho, or any political subdivision or governmental entity, provided such subdivision or entity has elected to come into the system. Governmental entity means any organization composed of units of government of Idaho or organizations funded only by government or employee contributions or organizations that discharge governmental responsibilities or proprietary responsibilities that would otherwise be performed by government. All governmental entities are deemed to be political subdivisions for the purpose of this chapter. Provided however, that on and after the effective date of this act, all new employers added to the public employee retirement system must be in compliance with internal revenue regulations governing governmental retirement plans.

(15A) "Final contribution" means the final contribution made by a member pursuant to sections 59-1331 through 59-1334, Idaho Code.

(16) "Firefighter" means:

(a) An employee, including paid firefighters hired on or after October 1, 1980, whose primary occupation is that of preventing and extinguishing fires as determined by the rules of the board; or

(b) The state fire marshal or the state fire marshal's deputies.

(17) "Fiscal year" means the period beginning on July 1 in any year and ending on June 30 of the next succeeding year.

(18) "Fund" means the public employee retirement fund established by this chapter.

(19) "Funding agent" means any bank or banks, trust company or trust companies, legal reserve life insurance company or legal reserve life insurance companies, or combinations thereof, any thrift institution or credit union or any investment management firm or individual investment manager selected by the board to hold and/or invest the employers' and members' contributions and to pay certain benefits granted under this chapter.

(20) "Inactive member" means a former active member who is not an employee and is not receiving any form of retirement allowance, who has not requested a separation benefit, or for whom a separation benefit has not become payable.

(20A) "Ineligible" means:

(a) Not eligible to participate and not required to contribute as an employee when:

(i) The employer is not a current member of the public employee retirement system of Idaho (PERSI);

(ii) The employee is not an employee as defined in subsection (14) of this section; or

(iii) The employee is participating in the judges retirement fund, the firefighters retirement fund or the optional retirement plan;

(b) Not eligible for retirement where there has been no termination of employment from an employer participating in PERSI, the judges retirement fund, the firefighters retirement fund or the optional retirement plan or a withdrawn employer; or

(c) Not eligible to receive a separation benefit where there has been no termination of employment from an employer participating in PERSI, the judges retirement fund, the firefighters retirement fund or the optional retirement plan or a withdrawn employer.

All state agencies, political subdivisions or governmental entities that qualify as an employer as defined in subsection (15) of this section or prior to April 4, 2017, were considered an employer and are currently participating in PERSI are, for purposes of PERSI, deemed one (1) employer beginning on the effective date of this act.

(20B) "Lifetime annuity" means periodic monthly payments of income by the retirement system to an alternate payee.

(20C) "Lump sum distribution" means a payment by the retirement system of the entire balance in the alternate payee's segregated account, together with regular interest credited thereon.

(21) "Member" means an active member, inactive member or a retired member.

(22) "Membership service" means military service that occurs after the commencement of contributions payable under sections 59-1331 through 59-1334, Idaho Code, and service with respect to which contributions are payable under sections 59-1331 through 59-1334, Idaho Code, which, except for benefit calculations described in sections 59-1342 and 59-1353, Idaho Code, includes service transferred to a segregated account under an approved domestic retirement order.

(23) "Military service" means any period of active duty service in the armed forces of the United States, including the national guard and reserves, under the provisions of title 10, title 32, and title 37, United States code, that commences fewer than ninety (90) days after the person ceases to be an employee and ends fewer than ninety (90) days before the person again becomes an employee. Provided, if a member fails to again become an employee as a result of his death while in active duty service, the member shall be entitled to military service through the date of death. Provided further, if a member fails to again become an employee due to a disability retirement resulting from service in the armed forces of the United States, the member shall be entitled to military service through the date the disability allowance becomes payable. In no event shall military service include:

(a) Any period ended by dishonorable discharge or during which termination of such service is available but not accepted; or

(b) Any active duty service in excess of five (5) years if at the convenience of the United States government, or in excess of four (4) years if not at the convenience of the United States government, provided additional membership service may be purchased as provided in section 59-1362, Idaho Code.

(24) (a) "Police officer" for retirement purposes shall be as defined in section 59-1303, Idaho Code.

(b) "POST" means the Idaho peace officer standards and training council established in chapter 51, title 19, Idaho Code.

(25) "Prior service" means any period prior to July 1, 1965, of military service or of employment for the state of Idaho or any political subdivision or other employer of each employee who is an active member or in military service or on leave of absence on the date of establishment, provided, however, an employee who was not an active member or in military service or on leave of absence on the date of establishment shall receive credit for the member's service prior to July 1, 1965, on the basis of recognizing two (2) months of such service for each month of membership service. For the purpose of com-

puting such service, no deduction shall be made for any continuous period of absence from service or military service of six (6) months or less.

(26) "Regular interest" means interest at the rate set from time to time by the board.

(27) "Retired member" means a former active member receiving a retirement allowance.

(28) "Retirement" means the acceptance of a retirement allowance under this chapter upon termination of employment and, unless otherwise provided by law, requires a termination of employment from an employer participating in PERSI, the judges retirement fund, the firefighters retirement fund or the optional retirement plan.

(29) "Retirement board" or "board" means the board provided for in sections 59-1304 and 59-1305, Idaho Code, to administer the retirement system.

(30) "Retirement system" or "system" means the public employee retirement system of Idaho.

(31) (A) "Salary" means:

(a) The total salary or wages paid to a person who meets the definition of employee by an employer for personal services performed and reported by the employer for income tax purposes, including the cash value of all remuneration in any medium other than cash.

(b) The total amount of any voluntary reduction in salary agreed to by the member and employer where the reduction is used as an alternative form of remuneration to the member.

(B) Salary in excess of the compensation limitations set forth in section 401(a)(17) of the Internal Revenue Code shall be disregarded for any person who becomes a member of the system on or after July 1, 1996. The system had no limitations on compensation in effect on July 1, 1993. The compensation limitations set forth in section 401(a)(17) of the Internal Revenue Code shall not apply for an "eligible employee." For purposes of this subsection, "eligible employee" is an individual who was a member of the system before July 1, 1996.

(C) "Salary" does not include:

(a) Contributions by employers to employee-held medical savings accounts, as those accounts are defined in section 63-3022K, Idaho Code.

(b) Lump sum payments inconsistent with usual compensation patterns made by the employer to the employee only upon termination from service including, but not limited to, vacation payoffs, sick leave payoffs, early retirement incentive payments and bonuses.

(c) Differential wage payments as defined in 26 U.S.C. 3401(h). A differential wage payment generally refers to an employer payment to an employee called to active duty in the uniformed services for more than thirty (30) days that represents all or a portion of the compensation he would have received from the employer if he were performing services for the employer.

(d) Employer payments to employees for or related to travel, mileage, meals, lodging or subsistence expenses, without regard to the taxability of such payments for federal income tax purposes and without regard to the form of payment, including payment made as reimbursement of an itemized expense voucher and payment made of an unvouchered expense allowance.

(31A) "Segregated account" means the account established by the retirement system for the alternate payee of a member who is not a retired member. It shall include the months of credited service and accumulated contributions transferred from the member's account.

(32) "Separation benefit" means the amount, if any, pursuant to section 59-1359, Idaho Code.

(33) "Service" means being shown on an employer's payroll as an employee receiving a salary. For each calendar month, service is credited only when a member is an employee as defined in subsection (14) (A) of this section and is

employed for fifteen (15) days or more during the calendar month. Employment of fourteen (14) days or less during any calendar month shall not be credited. No more than one (1) month of service shall be credited for all service in any month.

(34) "Service retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for service retirement.

(35) "State" means the state of Idaho.

(35A) "Termination from employment" means the employee has separated from employment, the employee has ended service with the employer and the employer has notified PERSI of the termination.

(36) "Vested member" means an active or inactive member who has at least five (5) years of credited service, except that a member, who at the time of his separation from service:

(a) Held an office to which he had been elected by popular vote or having a term fixed by the constitution, statute or charter or was appointed to such office by an elected official; or

(b) Was the head or director of a department, division, agency, statutory section or bureau of the state; or

(c) Was employed on or after July 1, 1965, by an elected official of the state of Idaho and occupied a position exempt from the provisions of chapter 53, title 67, Idaho Code; and

(d) Was not covered by a merit system for employees of the state of Idaho;

is vested without regard to the length of credited service.

(37) The masculine pronoun, wherever used, shall include the feminine pronoun.

SECTION 2. That Section 72-451, Idaho Code, be, and the same is hereby amended to read as follows:

72-451. PSYCHOLOGICAL ACCIDENTS AND INJURIES. (1) Psychological injuries, disorders or conditions shall not be compensated under this title, unless the following conditions are met:

(a) Such injuries of any kind or nature emanating from the workplace shall be compensated only if caused by accident and physical injury as defined in section 72-102(18)(a) through (18)(c), Idaho Code, or only if accompanying an occupational disease with resultant physical injury, except that a psychological mishap or event may constitute an accident where:

(i) It results in resultant physical injury as long as the psychological mishap or event meets the other criteria of this section;

(ii) It is readily recognized and identifiable as having occurred in the workplace; and

(iii) It must be the product of a sudden and extraordinary event;

(b) No compensation shall be paid for such injuries arising from conditions generally inherent in every working situation or from a personnel-related action including, but not limited to, disciplinary action, changes in duty, job evaluation or employment termination;

(c) Such accident and injury must be the predominant cause as compared to all other causes combined of any consequence for which benefits are claimed under this section;

(d) Where psychological causes or injuries are recognized by this section, such causes or injuries must exist in a real and objective sense;

(e) Any permanent impairment or permanent disability for psychological injury recognizable under the Idaho worker's compensation law must be based on a condition sufficient to constitute a diagnosis using the terminology and criteria of the American psychiatric association's di-

agnostic and statistical manual of mental disorders, third edition revised, or any successor manual promulgated by the American psychiatric association, and must be made by a psychologist or psychiatrist duly licensed to practice in the jurisdiction in which treatment is rendered; and

(f) Clear and convincing evidence that the psychological injuries arose out of and in the course of the employment from an accident or occupational disease as contemplated in this section is required.

(2) Nothing in subsection (1) of this section shall be construed as allowing compensation for psychological injuries from psychological causes without accompanying physical injury.

(3) The provisions of subsection (1) of this section shall apply to accidents and injuries occurring on or after July 1, 1994, and to causes of action for benefits accruing on or after July 1, 1994, notwithstanding that the original worker's compensation claim may have occurred prior to July 1, 1994.

(4) Notwithstanding subsection (1) of this section, post-traumatic stress injury suffered by a first responder is a compensable injury or occupational disease when the following conditions are met:

(a) The first responder is examined and subsequently diagnosed with post-traumatic stress injury by a psychologist, a psychiatrist duly licensed to practice in the jurisdiction where treatment is rendered, or a counselor trained in post-traumatic stress injury; and

(b) Clear and convincing evidence indicates that the post-traumatic stress injury was caused by an event or events arising out of and in the course of the first responder's employment.

(5) No compensation shall be paid for such injuries described in subsection (2) of this section arising from a personnel-related action including, but not limited to, disciplinary action, changes in duty, job evaluation, or employment termination.

(6) As used in subsection (4) of this section:

(a) "Post-traumatic stress injury" means a disorder that meets the diagnostic criteria for post-traumatic stress disorder or post-traumatic stress injury specified by the American psychiatric association's diagnostic and statistical manual of mental disorders, fifth edition revised, or any successor manual promulgated by the American psychiatric association.

(b) "First responder" means:

(i) A peace officer as defined in section 19-5101(d), Idaho Code, when employed by a city, county, or the Idaho state police;

(ii) A firefighter as defined in sections ~~59-1391(f)~~ and ~~72-1403(A)~~ 59-1302(16), Idaho Code;

(iii) A volunteer emergency responder as defined in section 72-102(32), Idaho Code;

(iv) An emergency medical service provider, or EMS provider, certified by the department of health and welfare pursuant to sections 56-1011 through 56-1018B, Idaho Code, and an ambulance-based clinician as defined in the rules governing emergency medical services as adopted by the department of health and welfare; and

(v) An emergency communications officer as defined in section 19-5101(f), Idaho Code.

(7) Subsections (4) through (6) of this section are effective for first responders with dates of injury or manifestations of occupational disease on or after July 1, 2019.

CHAPTER 84
(H.B. No. 94)

AN ACT

RELATING TO THE CRIMINAL JUSTICE INTEGRATED DATA SYSTEM; AMENDING SECTION 19-4804, IDAHO CODE, TO AUTHORIZE A DESIGNEE FROM THE STATE BOARD OF EDUCATION TO SERVE ON THE DATA OVERSIGHT COUNCIL, TO PROVIDE FOR A VICE CHAIRMAN, AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 19-4804, Idaho Code, be, and the same is hereby amended to read as follows:

19-4804. DATA OVERSIGHT COUNCIL. (1) There is hereby created in the office of the state controller the data oversight council. All requests for projects, reports, and data analyses generated from the criminal justice integrated data system must be approved by the data oversight council.

(2) The data oversight council shall be comprised of:

(a) The governor or his designee;

(b) The chief justice of the Idaho supreme court or his designee;

(c) The attorney general or his designee;

(d) The state controller or his designee;

(e) The director of the department of correction or his designee;

(f) The executive director of the commission of pardons and parole or his designee;

(g) The director of the department of juvenile corrections or his designee;

(h) The director of the department of health and welfare or his designee;

(i) The director of the Idaho state police or his designee;

(j) The administrator of the office of information technology services or his designee; and

(k) A designee from the state board of education or the state department of education selected by the governor.

(3) Any designee under subsection (2) of this section must be an employee in the office, agency, or department of his respective designating authority. Members of the data oversight council shall serve without any additional compensation or honorarium.

(4) The data oversight council, by majority vote, shall elect a chairman and vice chairman among its members who shall serve a term of two (2) years while serving on the council.

(5) All meetings of the data oversight council shall be held in compliance with the open meetings law as provided in chapter 2, title 74, Idaho Code.

(6) The state controller shall work in collaboration with the data oversight council to manage the criminal justice integrated data system. It shall be the duty of the state controller, in conjunction with the data oversight council, to assure confidentiality of all records and data collected by the criminal justice integrated data system and to assure compliance with applicable state and federal laws and rules governing the privacy of records, data, and personal identifiable information.

(7) Any projects, reports, or data analyses in final form produced by persons authorized to conduct research and analyses under this chapter shall belong to the requesting local government or state agency or department and not the office of the state controller.

(8) The Idaho legislature, as well as the contributing state agencies and departments and local governments, shall have priority in requesting any projects, reports, or data analyses to be produced by persons authorized by the data oversight council. The data oversight council may, in its discretion, deny any requested project, report, or data analysis where it determines the request is unduly burdensome, voluminous, or cost-prohibitive.

(9) The office of the state controller, members of the data oversight council, and all contributing local governments, state agencies and departments, or volunteer nongovernmental entities shall be immune from liability to any person or entity for any invasion of the right to privacy or use of records or data generated by the criminal justice integrated data system.

(10) In collaboration with contributing local governments, state agencies and departments, or volunteer nongovernmental entities and the data oversight council, the state controller may establish policies addressing the creation of reports generated through the query of records and data possessed by the criminal justice integrated data system. Provided, however, contributing volunteer nongovernmental entities may only collaborate only with respect to the data or information contributed by that volunteer nongovernmental entity.

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

Approved March 18, 2021

CHAPTER 85
(H.B. No. 95)

AN ACT

RELATING TO THE DISTRICT MAGISTRATES COMMISSIONS; AMENDING SECTION 1-2203, IDAHO CODE, TO REVISE PROVISIONS REGARDING MEMBERSHIP OF A DISTRICT MAGISTRATES COMMISSION; AMENDING CHAPTER 22, TITLE 1, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 1-2203A, IDAHO CODE, TO PROVIDE FOR THE TERMS OF MEMBERS OF A DISTRICT MAGISTRATES COMMISSION; AND AMENDING CHAPTER 22, TITLE 1, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 1-2203B, IDAHO CODE, TO PROVIDE FOR VACANCIES, TEMPORARY VACANCIES, AND TEMPORARY MEMBERS OF A DISTRICT MAGISTRATES COMMISSION.

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

SECTION 1. That Section 1-2203, Idaho Code, be, and the same is hereby amended to read as follows:

1-2203. DISTRICT MAGISTRATES COMMISSION -- CREATION -- MEMBERS -- APPOINTMENT -- QUALIFICATIONS. (1) There is hereby established in each judicial district of the state of Idaho a district magistrates commission to be known as the "district magistrates commission of the . . . judicial district," the members of which shall consist of:

- (a) Tthe chairman of the board of county commissioners of each county in the district or member of such board designated by the chairman₇;
- (b) Tthe mayors of three (3) municipalities, to be appointed by the governor, one (1) of whom shall be from a city of ever more than ten thousand (10,000) population, in the district to be appointed by the governor, based on the most recent federal decennial census, which position shall be designated as mayor A, and the other two (2) positions designated as mayor B and mayor C, respectively;

(c) Two (2) qualified electors residing within the district, to be appointed by the governor, one (1) position designated as elector A and the other as elector B;

(d) The administrative district judge of the district or district judge of the district designated by him, the administrative district judge;

(e) Two (2) attorneys nominated by the district bar associations in each district and appointed by the Idaho state bar, one (1) position designated as attorney A and the other as attorney B;

(f) A magistrate judge in the district, to be appointed by the administrative district judge; and

(g) A county clerk in the district, to be appointed by the administrative district judge. Temporary attorney members may be nominated in such number as the bar association in each district deems appropriate at any time by the respective district bar association and appointed by the Idaho state bar to fill any temporary attorney member vacancy on the district magistrates commissions.

(2) Each of the members shall be over the age of majority and shall be and remain a citizen of the United States, a bona fide resident of the state and district, and of good moral character.

(23) Forthwith after making any appointments to such commissions, the respective appointing authorities shall duly certify in writing to the administrative director of the courts and to the secretary of state the following facts with respect to each appointee:

(a) Full name;

(b) Age;

(c) Residence address;

(d) If employed, the nature of the appointee's occupation and business address;

(e) The name of the district magistrates commission to which appointed;

(f) The date of expiration of term for which appointed;

(g) Except for the initial appointees under this act, the name of the person the appointee succeeds on the commission and, for a mayor, elector, or attorney member, the member's appropriate designation; and

(h) If a member other than a mayor, magistrate judge, or district judge, the appointee's political party.

(34) No member, other than the persons appointed while serving as mayor, county commissioner, clerk, magistrate judge, or district judge shall hold any city, county, or state elective office or be employed by the state or any city or county while a member of the commission.

~~(4) The two (2) attorney members shall serve for a term of two (2) years and may succeed themselves for two (2) additional terms. The qualified elector members shall serve terms of six (6) years each and may succeed themselves. The mayors shall serve terms of six (6) years and may succeed themselves, provided that their terms will end when they cease to hold the office that entitles them to membership on the commission. The magistrate judge shall serve a two (2) year term that may be renewed up to a total of six (6) years. The county clerk shall serve a two (2) year term that may be renewed up to a total of six (6) years. Appointments to fill vacancies shall be made by the initial appointing authority for the unexpired term.~~

~~(5) A vacancy on the commission shall be caused by a voting member dying, resigning, moving his or her residence outside the district, moving his or her residence to another county and, in the case of a mayor, magistrate judge, district judge, clerk, or county commissioner member, losing his or her status as such official for any reason; provided, however, that except in the case of death or resignation of a member, the member shall continue to serve until a successor is duly appointed and qualified. A vacancy on the commission shall be caused by an attorney member dying, resigning, moving his or her residence to without the district or being suspended or dis-~~

~~barred from the practice of law. A temporary vacancy on the commission shall be caused by an attorney member currently practicing law in the same firm as an applicant seeking a magistrate judge's position in the commission's judicial district, or by an attorney member or a magistrate judge member having been engaged in the practice of law as a partner of such applicant within the last five (5) years. The position of the clerk member shall be temporarily vacated on the commission if an applicant is seeking a magistrate judge's position in the clerk member's county. The position of the clerk member shall be temporarily vacated during any removal process of a magistrate judge. It shall be the duty of any member who has become disqualified for any reason promptly to report that fact in writing to the chairman and secretary of the commission. It shall be the duty of the chairman or secretary promptly to report in writing to the appropriate appointing authority the existence of any vacancy on the commission.~~

SECTION 2. That Chapter 22, Title 1, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 1-2203A, Idaho Code, and to read as follows:

1-2203A. DISTRICT MAGISTRATES COMMISSION -- TERMS. (1) Except as otherwise provided in this subsection, the mayors shall serve terms on the commission of five (5) years and may succeed themselves, provided that their terms will end when they cease to hold the office that entitles them to membership on the commission. The terms of all mayors serving on a magistrates commission as of September 30, 2021, shall terminate on September 30, 2021, provided, however, the appointing authority may reappoint a mayor to an applicable designated position on the commission. On and after October 1, 2021, with respect to:

(a) Mayor A, the initial term shall be one (1) year, ending September 30, 2022, and thereafter the term of mayor A shall end on September 30 in years that end in two (2) or seven (7);

(b) Mayor B, the initial term shall be three (3) years, ending September 30, 2024, and thereafter the term of mayor B shall end on September 30 in years that end in four (4) or nine (9); and

(c) Mayor C, the initial term shall be five (5) years, ending September 30, 2026, and thereafter the term of mayor C shall end on September 30 in years that end in one (1) or six (6).

(2) Except as otherwise provided in this subsection, the qualified electors shall serve terms on the commission of five (5) years and may succeed themselves, provided that their terms will end when they cease to reside in the district. The terms of all qualified electors serving on a magistrates commission as of September 30, 2021, shall terminate on September 30, 2021, provided, however, the appointing authority may reappoint a qualified elector to an applicable designated position on the commission. On and after October 1, 2021, with respect to:

(a) Elector A, the initial term shall be two (2) years, ending September 30, 2023, and thereafter the term of elector A shall end on September 30 in years that end in three (3) or eight (8); and

(b) Elector B, the initial term shall be four (4) years, ending September 30, 2025, and thereafter the term of elector B shall end on September 30 in years that end in zero (0) or five (5).

(3) Except as otherwise provided in this subsection, attorneys shall serve for a term of two (2) years and may succeed themselves for two (2) additional terms. The terms of all attorneys on a magistrates commission on September 30, 2021, shall terminate on September 30, 2021, provided, however, the appointing authority may reappoint an attorney to an applicable designated position on the commission, subject to the term limit in this subsection. On and after October 1, 2021, with respect to:

(a) Attorney A, the initial term shall be one (1) year, ending September 30, 2022, and thereafter the term of attorney A shall end on September 30 in even-numbered years; and

(b) Attorney B, the initial term shall be two (2) years, ending September 30, 2023, and thereafter the term of attorney B shall end on September 30 in odd-numbered years.

(4) Except as otherwise provided in this subsection, the magistrate judge shall serve for a term of two (2) years and may succeed himself for two (2) additional terms. The terms of all magistrate judges serving on a magistrates commission as of September 30, 2021, shall terminate on September 30, 2021, provided, however, the appointing authority may reappoint a magistrate judge to the magistrates commission, subject to the term limit in this subsection. On and after October 1, 2021, the term of the magistrate judge shall end on September 30 in odd-numbered years.

(5) Except as otherwise provided in this subsection, the county clerk shall serve for a term of two (2) years and may succeed himself for two (2) additional terms. The terms of all county clerks serving on a magistrates commission as of September 30, 2021, shall terminate on September 30, 2021, provided, however, the appointing authority may reappoint a county clerk to the magistrates commission, subject to the term limit in this subsection. On and after October 1, 2021, with respect to the county clerk, the initial term shall be one (1) year, ending September 30, 2022, and thereafter the term of the county clerk shall end on September 30 in even-numbered years.

SECTION 3. That Chapter 22, Title 1, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 1-2203B, Idaho Code, and to read as follows:

1-2203B. DISTRICT MAGISTRATES COMMISSION -- VACANCIES -- TEMPORARY VACANCIES -- TEMPORARY MEMBERS. (1) A vacancy on the commission shall be caused by a voting member dying, resigning, moving his residence outside the district, moving his residence to another county, and, in the case of a mayor, magistrate judge, district judge, county clerk, or county commissioner member, losing his status as such official for any reason; provided, however, that except in the case of death or resignation of a member, the member who is not otherwise disqualified by law from continuing to serve shall continue to serve until a successor is duly appointed and qualified.

(2) In the case of an attorney member, a vacancy on the commission shall also be caused by being suspended or disbarred from the practice of law.

(3) Appointments to fill all vacancies, including temporary vacancies, shall be made by the initial appointing authority for the unexpired term or for the period of any temporary vacancy.

(4) A temporary vacancy on the commission shall be caused by an attorney member currently practicing law in the same firm as an applicant seeking a magistrate judge's position in the commission's judicial district or by an attorney member or a magistrate judge member having been engaged in the practice of law as a partner of such applicant within the last five (5) years.

(5) A temporary vacancy on the commission for the county clerk member shall occur if the magistrate judge position being filled or the removal process of a magistrate judge is in the county clerk's county.

(6) Temporary attorney members may be nominated in such number as the bar association in each district deems appropriate at any time by the respective district bar association and appointed by the Idaho state bar to fill any temporary attorney member vacancy on the district magistrates commission.

(7) It shall be the duty of any member who has become disqualified for any reason promptly to report that fact in writing to the chairman and secretary of the commission. It shall be the duty of the chairman or secretary promptly to report in writing to the appropriate appointing authority the existence of any vacancy on the commission.

Approved March 18, 2021

CHAPTER 86
(H.B. No. 251)

AN ACT

RELATING TO INCOME TAX; AMENDING SECTION 63-3022, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING CERTAIN FEDERAL RELIEF MONEYS IN COMPUTING TAXABLE INCOME; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

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

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

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

(c) (1) A net operating loss for any taxable year commencing on and after January 1, 2000, but before January 1, 2013, shall be a net operating loss carryback not to exceed a total of one hundred thousand dollars (\$100,000) to the two (2) immediately preceding taxable years. At the election of the taxpayer, the two (2) year carryback may be forgone and the loss subtracted from income received in taxable years arising in the next twenty (20) years succeeding the taxable year in which the loss arises in order until exhausted.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(n) In the case of an individual for any tax period ending on or prior to December 31, 2016, deduct the amount contributed to a college savings program but not more than four thousand dollars (\$4,000) per tax year. In the case of an individual and for any tax period starting on or after January 1, 2017, deduct the amount contributed to a college savings program, but not more than six thousand dollars (\$6,000) per tax year. For those married and filing jointly, deduct the amount contributed to a college savings program, but not more than twice of that allowed for an individual. To be qualified for this deduction, the contribution must be made during the taxable year and made to an Idaho college savings program account as described in chapter 54, title 33, Idaho Code.

(o) In the case of an individual, add the amount of a nonqualified withdrawal from an individual trust account or savings account established pursuant to chapter 54, title 33, Idaho Code, less any amount of such nonqualified withdrawal included in the individual's federal gross income pursuant to section 529 of the Internal Revenue Code. The addition provided in this subsection is limited to contributions previously exempt from Idaho state income tax and earnings generated from the program as long as the earnings are not already included in federal adjusted gross income.

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

(q) Deduct any amount disallowed under section 461(1)(1)(B) of the Internal Revenue Code (relating to excess business losses) that is treated as part of the taxpayer's net operating loss carryforward for federal income tax purposes.

(r) Subtract any amounts included in taxable income for funds received or loans forgiven pursuant to the provisions of the coronavirus aid, relief, and economic security act, P.L. 116-136.

(s) Subtract any amounts included in taxable income for loans forgiven pursuant to the paycheck protection program and health care enhancement act, P.L. 116-139, including economic injury disaster loan advance funds, and the paycheck protection program flexibility act of 2020, P.L. 116-142.

(t) Add any amounts excluded from taxable income for funds received pursuant to the emergency rental assistance program established by section 501 of division N of the consolidated appropriations act, 2021, P.L. 116-260.

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, 2021.

Approved March 18, 2021

CHAPTER 87
(S.B. No. 1044)

AN ACT

RELATING TO URBAN RENEWAL; AMENDING SECTION 7-701A, IDAHO CODE, TO PROVIDE A CERTAIN LIMITATION ON THE USE OF EMINENT DOMAIN AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 50-2006, IDAHO CODE, TO PROVIDE THAT PROPERTY OF AN URBAN RENEWAL AGENCY SHALL REVERT TO THE MUNICIPALITY UPON DISSOLUTION AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 50-2010, IDAHO CODE, TO PROVIDE A CERTAIN LIMITATION ON THE USE OF EMINENT DOMAIN AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 7-701A, Idaho Code, be, and the same is hereby amended to read as follows:

7-701A. LIMITATION ON EMINENT DOMAIN FOR PRIVATE PARTIES, URBAN RENEWAL OR ECONOMIC DEVELOPMENT PURPOSES. (1) This section limits and restricts the use of eminent domain under the laws of this state or local ordinance by the state of Idaho, its instrumentalities, political subdivisions, public agencies, or bodies corporate and politic of the state to condemn any interest in property in order to convey the condemned interest to a private interest or person as provided herein in this section.

(2) Eminent domain shall not be used to acquire private property:

(a) For any alleged public use ~~which~~ that is merely a pretext for the transfer of the condemned property or any interest in that property to a private party; or

(b) For the purpose of promoting or effectuating economic development; provided however, that nothing ~~herein~~ in this subsection shall affect the exercise of eminent domain:

(i) Pursuant to chapter 15, title 70, Idaho Code, and title 42, Idaho Code; or

(ii) Pursuant to chapter 19, 20 or 29, title 50, Idaho Code, except that no private property shall be taken through exercise of eminent domain within the area of operation of a housing authority or within an urban renewal area or within a deteriorated or deteriorating area or within a competitively disadvantaged border community area unless the specific property to be condemned is proven by clear and convincing evidence to be in such condition that it meets all of the following requirements:

1. The property, due to general dilapidation, compromised structural integrity, or failed mechanical systems, endangers life or endangers property by fire or by other perils that pose an actual identifiable threat to building occupants; and

2. The property contains specifically identifiable conditions that pose an actual risk to human health, transmission of disease, juvenile delinquency or criminal content; and

3. The property presents an actual risk of harm to the public health, safety, morals or general welfare; or

(iii) For those public and private uses for which eminent domain is expressly provided in the constitution of the state of Idaho; or
(c) For trails, paths, greenways or other ways for walking, running, hiking, bicycling or equestrian use, unless adjacent to a highway, road or street.

(3) Any board of commissioners for an urban renewal agency whose members are comprised entirely of officials elected pursuant to section 50-2006(b) (3) and (5), Idaho Code, may exercise the right of eminent domain. However, if a board of commissioners for an urban renewal agency includes one (1) or more commissioners who are appointed to the board of commissioners, that board may act only in an advisory capacity to the local governing body with regard to eminent domain decisions, and any final decision on the use of eminent domain shall be made by the local governing body that created the urban renewal agency.

(4) This section shall not affect the authority of a governmental entity to condemn a leasehold estate on property owned by the governmental entity.

(45) The rationale for condemnation by the governmental entity proposing to condemn property shall be freely reviewable in the course of judicial proceedings involving exercise of the power of eminent domain.

SECTION 2. That Section 50-2006, Idaho Code, be, and the same is hereby amended to read as follows:

50-2006. URBAN RENEWAL AGENCY. (a) There is hereby created in each municipality an independent public body corporate and politic to be known as the "urban renewal agency" that was created by resolution as provided in section 50-2005, Idaho Code, before July 1, 2011, for the municipality; provided, that such agency shall not transact any business or exercise its powers hereunder until or unless: (1) the local governing body has made the findings prescribed in section 50-2005, Idaho Code; and provided further, that such agency created after July 1, 2011, shall not transact any business or exercise its powers provided for in this chapter until (2) a majority of qualified electors, voting in a citywide or countywide election, depending on the municipality in which such agency is created, vote to authorize such agency to transact business and exercise its powers provided for in this chapter. If prior to July 1, 2011, the local governing body has made the findings prescribed in ~~subsection (a)~~ paragraph (1) of this subsection, then such agency shall transact business and shall exercise its powers hereunder and is not subject to the requirements of ~~subsection (a)~~ paragraph (2) of this subsection.

(b) Upon satisfaction of the requirements under subsection (a) of this section, the urban renewal agency is authorized to transact the business and exercise the powers hereunder by a board of commissioners to be established as follows:

(1) Unless provided otherwise in this section, the mayor, by and with the advice and consent of the local governing body, shall appoint a board of commissioners of the urban renewal agency, which shall consist of not less than three (3) commissioners nor more than nine (9) commissioners. In the order of appointment, the mayor shall designate the number of commissioners to be appointed, and the term of each, provided that the original term of office of no more than two (2) commissioners shall expire in the same year. The commissioners shall serve for terms not to exceed five (5) years, from the date of appointment, except that all vacancies shall be filled for the unexpired term.

(2) For inefficiency or neglect of duty or misconduct in office, a commissioner may be removed by a majority vote of the local governing body only after a hearing and after he shall have been given a copy of the charges at least ten (10) days prior to such hearing and have had an op-

portunity to be heard in person or by counsel. Any commission position that becomes vacant at a time other than the expiration of a term shall be filled by the mayor or chair of the board of county commissioners, if that is the local governing body, by and with the advice and consent of the local governing body, including the mayor, if applicable, and shall be filled for the unexpired term.

(3) By enactment of an ordinance, the local governing body may appoint and designate from among its members to be members of the board of commissioners of the urban renewal agency, provided that such representation shall be less than a majority of the board of commissioners of the urban renewal agency of the members of the local governing body on and after July 1, 2017, in which case all the rights, powers, duties, privileges and immunities vested by the urban renewal law of 1965, and as amended, in an appointed board of commissioners, shall be vested in the local governing body, who shall, in all respects when acting as an urban renewal agency, be acting as an arm of state government, entirely separate and distinct from the municipality, to achieve, perform and accomplish the public purposes prescribed and provided by said urban renewal law of 1965, and as amended.

(4) By enactment of an ordinance, the local governing body may terminate the appointed board of commissioners and thereby appoint and designate itself as the board of commissioners of the urban renewal agency for not more than one (1) calendar year.

(5) By enactment of an ordinance, the local governing body may provide that the board of commissioners of the urban renewal agency shall be elected at an election held for such purpose on one (1) of the November dates provided in section 34-106, Idaho Code, and the ordinance may provide term limits for the commissioners. In this case, all the rights, powers, duties, privileges and immunities vested by the urban renewal law of 1965, and as amended, in an appointed board of commissioners, shall be vested in the elected board of commissioners of the urban renewal agency, who shall, in all respects when acting as an urban renewal agency, be acting as an arm of state government, entirely separate and distinct from the municipality, to achieve, perform and accomplish the public purposes prescribed and provided by said urban renewal law of 1965, and as amended. The provisions of chapter 66, title 67, Idaho Code, shall apply to elected commissioners and the county election law shall apply to the person running for commissioner as if they were running for county commissioner. In the event of a vacancy in an elected commissioner position, the replacement shall be appointed by the mayor or chair of the board of county commissioners, if that is the local governing body by and with the advice and consent of the local governing body, and shall be filled for the unexpired term.

(6) In all instances, a member of the board of commissioners of the urban renewal agency must be a resident of the county where the urban renewal agency is located or is doing business.

(c) A commissioner shall receive no compensation for his services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties. Each commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk of the municipality and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner.

The powers of an urban renewal agency shall be exercised by the commissioners thereof. A majority of the commissioners shall constitute a quorum for the purpose of conducting business and exercising the powers of the agency and for all other purposes. Action may be taken by the agency upon a vote of a majority of the commissioners present, unless in any case the by-laws shall require a larger number.

The commissioners shall elect the chairman, cochairman or vice chairman for a term of one (1) year from among their members. An agency may employ an executive director, technical experts and such other agents and employees, permanent and temporary, as it may require, and determine their qualifications, duties and compensation. For such legal service as it may require, an agency may employ or retain its own counsel and legal staff. An agency authorized to transact business and exercise powers under this chapter shall file, with the local governing body, on or before March 31 of each year a report of its activities for the preceding calendar year, which report shall include a complete financial statement setting forth its assets, liabilities, income and operating expense as of the end of such calendar year. The agency shall be required to hold a public meeting to report these findings and take comments from the public. At the time of filing the report, the agency shall publish in a newspaper of general circulation in the community a notice to the effect that such report has been filed with the municipality and that the report is available for inspection during business hours in the office of the city clerk or county recorder and in the office of the agency.

(d) An urban renewal agency shall have the same fiscal year as a municipality and shall be subject to the same audit requirements as a municipality. An urban renewal agency shall be required to prepare and file with its local governing body an annual financial report and shall prepare, approve and adopt an annual budget for filing with the local governing body, for informational purposes. A budget means an annual estimate of revenues and expenses for the following fiscal year of the agency.

(e) An urban renewal agency shall comply with the public records law pursuant to chapter 1, title 74, Idaho Code, open meetings law pursuant to chapter 2, title 74, Idaho Code, the ethics in government law pursuant to chapter 4, title 74, Idaho Code, and the competitive bidding provisions of chapter 28, title 67, Idaho Code.

(f) Upon dissolution of the urban renewal agency, title to all property of the urban renewal agency shall revert to the municipality.

SECTION 3. That Section 50-2010, Idaho Code, be, and the same is hereby amended to read as follows:

50-2010. ACQUISITION OF PROPERTY. (a) An urban renewal agency shall have the right to acquire by negotiation or condemnation any interest in real property, including a fee simple title thereto, which it may deem necessary for or in connection with an urban renewal project and related activities under this act chapter. An urban renewal agency may exercise the power of eminent domain in the manner now or which may be hereafter provided by any other statutory provisions for the exercise of the power of eminent domain. Any board of commissioners for an urban renewal agency whose members are comprised entirely of officials elected pursuant to section 50-2006(b) (3) and (5), Idaho Code, may exercise the right of eminent domain. However, if a board of commissioners for an urban renewal agency includes one (1) or more commissioners who are appointed to the board of commissioners, that board may act only in an advisory capacity to the local governing body with regard to eminent domain decisions, and any final decision on the use of eminent domain shall be made by the local governing body that created the urban renewal agency. Property already devoted to a public use may be acquired in like manner: Provided, that no real property belonging to the United States, the state, or any political subdivision of the state, may be acquired without its consent.

(b) In any proceeding to fix or assess compensation for damages for the taking or damaging of property, or any interest therein, through the exercise of the power of eminent domain or condemnation, evidence or testimony bearing upon the following matters shall be admissible and shall be considered in fixing such compensation or damages, in addition to evidence or testimony otherwise admissible:

(1) ~~a~~Any use, condition, occupancy, or operation of such property, which ~~that~~ is unlawful or violative of, or subject to elimination, abatement, prohibition, or correction under, any law or any ordinance or regulatory measure of the state, county, municipality, other political subdivision, or any agency thereof, in which such property is located, as being unsafe, substandard, insanitary or otherwise contrary to the public health, safety, or welfare;

(2) ~~t~~The effect on the value of such property, of any such use, condition, occupancy, or operation, or of the elimination, abatement, prohibition, or correction of any such use, condition, occupancy, or operation.

(c) The foregoing testimony and evidence shall be admissible notwithstanding that no action has been taken by any public body or public officer toward the abatement, prohibition, elimination or correction of any such use, condition, occupancy, or operation. Testimony or evidence that any public body or public officer charged with the duty or authority so to do has rendered, made or issued any judgment, decree, determination or order for the abatement, prohibition, elimination or correction of any such use, condition, occupancy, or operation shall be admissible and shall be prima facie evidence of the existence and character of such use, condition or operation.

Approved March 18, 2021

CHAPTER 88
(S.B. No. 1121)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2021; APPROPRIATING AND TRANSFERRING MONEYS FROM THE GENERAL FUND TO THE WATER MANAGEMENT FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. CASH TRANSFER. There is hereby appropriated and the Office of the State Controller shall transfer \$50,000,000 from the General Fund to the Water Management Fund as soon as practicable for the period July 1, 2020, through June 30, 2021.

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

Approved March 18, 2021

CHAPTER 89
(H.B. No. 73)

AN ACT

RELATING TO THE FINANCES OF LOCAL GOVERNMENTAL ENTITIES AND EDUCATION PROVIDERS; PROVIDING LEGISLATIVE INTENT; AMENDING CHAPTER 4, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-448, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING THE COMMITTEE ON UNIFORM ACCOUNTING AND TRANSPARENCY FOR LOCAL GOVERNMENTAL ENTITIES AND TO PROVIDE FOR ITS MEMBERSHIP, RESPONSIBILITIES, AND MEMBER COMPENSATION; AMENDING CHAPTER 10, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1075, IDAHO CODE, TO PROVIDE FOR THE DUTY OF THE STATE CONTROLLER REGARDING A UNIFORM ACCOUNTING MANUAL FOR LOCAL GOVERNMENTAL ENTITIES; AMENDING SECTION 67-450E, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE LOCAL GOVERNMENTAL ENTITIES CENTRAL REGISTRY AND TO REDESIGNATE THE SECTION; REPEALING SECTION 67-1076, IDAHO CODE, RELATING TO THE LOCAL GOVERNMENTAL ENTITIES CENTRAL REGISTRY UNDER THE LEGISLATIVE SERVICES OFFICE; AMENDING CHAPTER 10, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1076, IDAHO CODE, TO PROVIDE FOR THE LOCAL GOVERNMENTAL ENTITIES CENTRAL REGISTRY UNDER THE STATE CONTROLLER'S OFFICE; AMENDING SECTION 31-1509, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE COUNTY ACCOUNTING SYSTEM; AMENDING SECTION 31-1602, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE DUTIES OF A COUNTY BUDGET OFFICER; AMENDING SECTION 31-1604, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE APPROVAL OF A COUNTY BUDGET; AMENDING SECTION 31-1606, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE CLASSIFICATION STANDARDS OF COUNTY EXPENDITURES; AMENDING SECTION 31-2101, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE DUTIES OF A COUNTY TREASURER; AMENDING SECTION 31-3620, IDAHO CODE, TO REVISE PROVISIONS REGARDING COUNTY HOSPITAL ACCOUNTING RECORDS; AMENDING SECTION 33-357, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE FOR POSTING CERTAIN RECORDS ON AN INTERNET-BASED WEBSITE, TO REVISE PROVISIONS REGARDING CERTAIN DATA, TO PROVIDE DUTIES OF THE STATE CONTROLLER AND EDUCATION PROVIDERS, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-414A, IDAHO CODE, TO REVISE PROVISIONS REGARDING AUDITS OF HEALTH DISTRICT FINANCES; AMENDING SECTION 50-208, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE DUTIES OF A CITY TREASURER; AMENDING SECTION 50-1002, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE PREPARATION OF A CITY BUDGET; AMENDING SECTION 50-2006, IDAHO CODE, TO REVISE PROVISIONS REGARDING FINANCIAL REPORTS BY URBAN RENEWAL AGENCIES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-450C, IDAHO CODE, TO REVISE PROVISIONS REGARDING INDEPENDENT FINANCIAL AUDITS OF CERTAIN ORGANIZATIONS; AMENDING SECTION 67-450D, IDAHO CODE, TO REVISE PROVISIONS REGARDING INDEPENDENT FINANCIAL AUDITS OF CERTAIN ENTITIES; AMENDING SECTION 67-702, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE DUTIES OF THE LEGISLATIVE SERVICES OFFICE; AMENDING SECTION 67-1001, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE DUTIES OF THE STATE CONTROLLER; AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature to provide for uniform accounting, budgeting, and financial reporting procedures for counties, cities, urban renewal agencies, and all other local districts. It is the purpose of this act to enable such local governmental entities and the state controller's office to provide comparable data by the use of uniform accounting, budgeting, and financial reporting procedures. It is also the intent of the Legislature for the financial data of education providers, as that term is defined in section 33-357, Idaho Code, to be sub-

mitted to the state controller's office to be correlated to the uniform accounting, budgeting, and financial reporting procedures to enhance public access to the education providers' financial data. It is also the intent of the Legislature to ensure uniform auditing of health district finances.

SECTION 2. That Chapter 4, 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 67-448, Idaho Code, and to read as follows:

67-448. COMMITTEE ON UNIFORM ACCOUNTING AND TRANSPARENCY FOR LOCAL GOVERNMENTAL ENTITIES. (1) In order to provide for uniform and transparent financial data of local governmental entities to better inform lawmakers, decision-makers, and citizens, there is hereby established the committee on uniform accounting and transparency for local governmental entities.

(2) The committee shall consist of seven (7) members comprised as follows:

(a) Three (3) members of the senate, one (1) of whom shall be the chairperson of the senate local government and taxation committee or his designee, one (1) from the majority party appointed by the president pro tempore of the senate, and one (1) from the minority party appointed by the minority leader;

(b) Three (3) members of the house of representatives, one (1) of whom shall be the chairperson of the house revenue and taxation committee or his designee, one (1) from the majority party appointed by the speaker of the house, and one (1) from the minority party appointed by the minority leader; and

(c) The state controller or his designee.

(3) The cochairs of the committee shall be the chairperson of the senate local government and taxation committee and the chairperson of the house revenue and taxation committee or their designees. Legislative appointments to the committee shall be for the term of office of the member appointed, and members shall serve at the pleasure of the appointing authority. The state controller or his designee shall serve for the term of office of the state controller, at the pleasure of the state controller. Any vacancy shall be filled in a manner consistent with the appointment procedure set forth in this section, except the appointment shall be for the remainder of the unexpired term. A committee member may be reappointed to the committee.

(4) The cochairs may appoint advisors with expertise in the fiscal affairs, including accounting and auditing responsibilities, of local governmental entities. Any advisors to the committee shall not receive compensation and shall not have voting privileges.

(5) The committee has as its primary duty and responsibility the collaborative task of developing, approving, monitoring, and revising as needed the uniform accounting, budgeting, and financial reporting system and manual for local governmental entities, pursuant to section 67-1075, Idaho Code. The committee shall by a simple majority approve the uniform accounting manual for local governmental entities and any revisions thereto.

(6) Legislative members of the committee are entitled to per diem at the direction of the president pro tempore of the senate or the speaker of the house of representatives at the rates established by the citizens' committee on legislative compensation. No compensation shall be paid to the state controller, but his designee, if not a state government employee, shall be reimbursed as provided in section 59-509(q), Idaho Code.

(7) The committee may direct the legislative services office to perform an audit on a local governmental entity, as defined in section 67-1076, Idaho Code.

(8) The committee may direct any local governmental entity, education provider, or state agency to provide financial information necessary to the state controller to fulfill his duties under the law.

SECTION 3. That Chapter 10, 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 67-1075, Idaho Code, and to read as follows:

67-1075. UNIFORM ACCOUNTING PRACTICES AND PROCEDURES -- LOCAL GOVERNMENTAL ENTITIES. (1) It is the duty of the state controller to ensure a uniform system of accounting for local governmental entities as defined in section 67-1076, Idaho Code, and to create and maintain a uniform accounting manual for local governmental entities that reflects best practices, with the assistance and approval of the committee on uniform accounting and transparency for local governmental entities pursuant to section 67-448, Idaho Code. The manual must define and classify the various funds, accounts, grants, and other financial structures by account title as necessary for the uniform reporting of accounting, budgeting, and financial reporting information, including estimated and actual revenues and expenditures. All local governmental entities as defined in section 67-1076, Idaho Code, shall comply with the reporting standards and requirements established under this section and section 67-1076, Idaho Code. The state controller is responsible for converting financial data from local governmental entities to the state controller's online platform.

(2) The state controller must create a public website for the reporting of local governmental entities' accounting, budgeting, and financial data in order to provide leaders, decision-makers, and citizens easy access to search, view, and compare data across the state. The state controller has the flexibility to create a staggered-phase project implementation schedule but must have the online program fully functional by January 1, 2025. The state controller must coordinate with local governmental entities as to the staggered implementation schedule. The state controller must provide a progress report on the implementation of the programs outlined in this section to the legislature on behalf of the committee on uniform accounting and transparency for local governmental entities annually until the project has been fully implemented.

(3) Until such time as otherwise directed by the state controller's office, a local governmental entity shall continue to report financial data required under section 67-1076, Idaho Code, to the legislative services office.

(4) The public website created and maintained by the state controller pursuant to this section must additionally provide access to education provider financial information. Such data may be integrated with or maintained separately from the local governmental entity data, in the discretion of the state controller.

SECTION 4. That Section 67-450E, Idaho Code, be, and the same is hereby amended to read as follows:

~~67-450E~~1076. LOCAL GOVERNING GOVERNMENTAL ENTITIES CENTRAL REGISTRY -- REPORTING INFORMATION REQUIRED -- PENALTIES FOR FAILURE TO REPORT. (1) In addition to the provisions applicable to local governing governmental entities found in section 67-450B, Idaho Code, the provisions of this section shall also apply to local governing governmental entities. For purposes of section 67-1075, Idaho Code, and this section, "local governing governmental entity" shall have the same meaning as provided in section 67-450B, Idaho Code. The term local governing entity shall also include without limitation all cities, counties, entities governed by chapter 20, title 50, Idaho Code, authorities, and districts organized as separate legal

and reporting entities under Idaho law and includes the councils, commissions, and boards as appointed or elected and charged with fiscal management responsibilities of the local governmental entity. If a local governing governmental entity is governed by the provisions of section 33-701, Idaho Code, such entity shall not be required to comply with the provisions of this section.

~~(1) (a) There is hereby established a central registry and reporting portal ("registry") on the legislative services office website. The registry and reporting portal shall serve as the unified location for the reporting of and access to administrative and financial information of local governing governmental entities in this state. To establish a complete list of all local governmental entities operating in Idaho, on the effective date of this legislation and so that the registry established will be comprehensive, every existing local governing~~
Every local governmental entity shall register with the state registry. For calendar year 2015, the submission of information required by subsection (2) of this section shall occur prior to March 1, 2015, and shall be in the form and format required by the legislative services office. In addition to the information required by this section for the March 1, 2015, filing deadline, the entity shall report the date of its last independent audit. The registry listing will be available on the legislative services office website by January 1, 2016.

~~(b) The county clerk shall notify each local governing governmental entity of the requirements of this section.~~

~~(c) After March 1, 2015, and on or before December 1 of eEach year,~~
according to the schedule set forth in the uniform accounting manual for local governmental entities authorized under section 67-1075, Idaho Code:

- ~~(i) The state tax commission shall submit a list to the legislative services office of all taxing districts within the state; and~~
- ~~(ii) The county clerk of each county shall submit a list to the legislative services office of all taxing districts in the county and any other local governing governmental entities that are authorized to impose fees, or assessments or to receive property tax money within the county.~~

~~(2) On or before December 1 of each year, every local governing governmental entity shall submit to the online central registry and reporting portal the following information:~~

~~(a) Administrative information:~~

- ~~(i) The terms of membership and appointing authority for the governing board member of the local governmental entity;~~
- ~~(ii) The official name, mailing address, and electronic mailing address of the entity;~~
- ~~(iii) The fiscal year of the entity; and~~
- ~~(iv) Except for cities and counties, the section of Idaho Code under which the entity was established, the date of establishment, the establishing entity, and the statute or statutes under which the entity operates, if different from the statute or statutes under which the entity was established.~~

~~(b) Financial information:~~

- ~~(i) The most recent adopted budget of the entity; and~~
- ~~(ii) An unaudited comparison of the budget to actual revenues and expenditures for the most recently completed fiscal year;~~
- ~~(iii) The date of its last independent audit; and~~
- ~~(iv) Upon notification by the state controller, any other financial information required under the uniform accounting manual for local governmental entities.~~

~~(c) Bonds or other debt obligation information:~~

- (i) The cumulative dollar amount of all bonds or other debt obligations issued or incurred by the entity; and
- (ii) The average length of term of all bond issuances or other debt obligations and the average interest rate of all bonds or other debt obligations.

(d3) Within five (5) days of submitting to the central registry the information required by this subsection, the local governing entity shall notify the entity's appointing authority, if the entity has an appointing authority, that it has submitted such information.

(e4) If any information provided by an entity as required by this subsection changes during the year, the entity shall update its information on the registry within thirty (30) days of any such change.

(f5) All reasonable fees, costs, and other expenses incurred assisting local governing governmental entities in compiling the reporting information required by this section may be charged by the county against the local governing governmental entity requesting the county's service. An entity may request assistance from the county to comply with provisions of this section, but the county is under no obligation to provide such assistance. For purposes of this section, reasonable fees and costs shall include, but are not be limited to, the labor costs, material costs, and copying costs incurred while assisting local governing governmental entities to comply with this section. Such fees and costs may be deducted from any distributions of taxes, fees, or assessments collected by the county on behalf of the local governing governmental entity.

(36) Audits required by sections 67-450B, 67-450C, and 67-450D, Idaho Code, will be submitted to the online portal.

(47) Notification, late fees, and penalties.

(a) If a local governing governmental entity fails to submit information required by this section or submits noncompliant information required by this section, the legislative services office shall notify the entity immediately after the due date of the information that either the information was not submitted in a timely manner or the information submitted was noncompliant. The local governing governmental entity shall then have thirty (30) days from the date of notice to submit the information or notify the legislative services office that it will comply by a time certain. The legislative services office may impose a late fee for each day over said thirty (30) days that the local governmental entity has failed to provide the information required under this section. The late fee may be in the amount of up to five hundred dollars (\$500) per day and is immediately payable from the local governmental entity to the legislative services office, which shall deposit the fee in the state general fund.

(b) ~~No later than September 1~~ January 15 of any year, the legislative services office shall notify the appropriate board of county commissioners and the state tax commission of the entity's failure to comply with the provisions of this section. Upon receipt of such notification, the board of county commissioners shall place a public notice in a newspaper of general circulation in the county indicating that the entity is noncompliant with the legal reporting requirements of this section. The county commissioners shall assess to the entity the cost of the public notice. Such costs may be deducted from any distributions of taxes, fees, increment financing, or assessments collected by the county on behalf of the local governing governmental entity. For any noncomplying entity, the legislative services office shall notify the board of county commissioners and the state tax commission of the compliance status of such entity ~~by September 1 of each year until once~~ once the entity is in compliance.

(c) A local governing governmental entity that fails to comply with this section shall be prohibited from including in its budget any budget

increase otherwise permitted by either subsection (1)(a) or (e) of section 63-802, Idaho Code.

(d) In addition to any other penalty provided in this section, ~~in~~ during any failure to comply with this section, the state tax commission shall withhold the annual quarterly distribution of sales tax distribution pursuant to section 63-3638(10), Idaho Code, for any noncomplying entity. The state tax commission shall withhold and retain such money in a reserve account until the legislative services office certifies that the entity has complied with the provisions of this section, at which point the state tax commission shall pay any money owed to the local governing governmental entity previously in violation of this section.

(e) For any local governing governmental entity that is a non-taxing district, including entities established pursuant to title 50, Idaho Code, upon notification to the board of county commissioners from the legislative services office of noncompliance by such entity, the board of county commissioners shall convene to determine appropriate compliance measures, including, but not limited to, the following:

(i) Require a meeting of the board of county commissioners and the entity's governing body wherein the board of county commissioners shall require compliance of this section by the entity;

(ii) Assess a noncompliance fee on the noncomplying entity. Such fee shall not exceed five thousand dollars (\$5,000). Such fees and costs may be deducted from any distributions of taxes, fees, increment financing, or assessments collected by the county on behalf of the local governing governmental entity until such time as the entity is in compliance with the requirements of this section and section 67-1075, Idaho Code. The amount of any such fee shall not be passed on to persons subject to the jurisdiction of the entity in the form of adjustments to any fee or assessment imposed or collected by the entity. Any fee collected shall be deposited into the county's current expense fund; and

(iii) Cause a special audit to be conducted on the entity at the cost of the entity.

(58) The provisions of this section shall have no impact or effect upon reporting requirements for local governing governmental entities relating to the state tax commission.

(9) It is the intent of the legislature that the duties of the legislative services office regarding the registry under this section shall be transferred to the office of the state controller on or before January 1, 2022. The exact date shall be determined by the state controller, who must notify all affected entities. Nothing in this section may be construed to affect or reduce the duties of the legislative services office with respect to performing audits.

SECTION 5. That Section 67-1076, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Chapter 10, 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 67-1076, Idaho Code, and to read as follows:

67-1076. LOCAL GOVERNMENTAL ENTITIES CENTRAL REGISTRY -- REPORTING INFORMATION REQUIRED -- PENALTIES FOR FAILURE TO REPORT. (1) In addition to the provisions applicable to local governmental entities found in section 67-450B, Idaho Code, the provisions of this section also apply to local governmental entities. For purposes of section 67-1075, Idaho Code, and this section, "local governmental entity" includes without limitation all cities, counties, entities governed by chapter 20, title 50, Idaho Code, authorities, and districts organized as separate legal and reporting

entities under Idaho law and includes the councils, commissions, and boards as appointed or elected and charged with fiscal management responsibilities of the local governmental entity. If a local governmental entity is governed by the provisions of section 33-701, Idaho Code, such entity is not required to comply with the provisions of this section.

(a) There is hereby established a central registry and reporting portal (registry) on the state controller's website. The registry and reporting portal shall serve as the unified location for the reporting of and access to administrative and financial information of local governmental entities in this state. Every local governmental entity must register with the state registry.

(b) The county clerk must notify each local governmental entity of the requirements of this section.

(c) Each year, according to the schedule set forth in the uniform accounting manual for local governmental entities authorized under section 67-1075, Idaho Code:

(i) The state tax commission must submit a list to the state controller of all taxing districts within the state; and

(ii) The county clerk of each county must submit a list to the state controller of all taxing districts in the county and any other local governmental entities that are authorized to impose fees or assessments or to receive property tax money within the county.

(2) On or before December 1 of each year, every local governmental entity must submit to the online central registry and reporting portal the following information:

(a) Administrative information:

(i) The terms of membership and appointing authority for the governing board member of the local governmental entity;

(ii) The official name, mailing address, and electronic mailing address of the entity;

(iii) The fiscal year of the entity; and

(iv) Except for cities and counties, the section of Idaho Code under which the entity was established, the date of establishment, the establishing entity, and the statute or statutes under which the entity operates, if different from the statute or statutes under which the entity was established.

(b) Financial information:

(i) The most recent adopted budget of the entity;

(ii) An unaudited comparison of the budget to actual revenues and expenditures for the most recently completed fiscal year;

(iii) The date of its last independent audit; and

(iv) Any other information required by the uniform accounting manual for local governmental entities.

(c) Bonds or other debt obligation information:

(i) The cumulative dollar amount of all bonds or other debt obligations issued or incurred by the entity; and

(ii) The average length of term of all bond issuances or other debt obligations and the average interest rate of all bonds or other debt obligations.

(3) Within five (5) days of submitting to the central registry the information required by this subsection, the local governing entity must notify the entity's appointing authority, if the entity has an appointing authority, that it has submitted such information.

(4) If any information provided by an entity as required by this subsection changes during the year, the entity must update its information on the registry within thirty (30) days of any such change.

(5) All reasonable fees, costs, and other expenses incurred assisting local governmental entities in compiling the reporting information required

by this section may be charged by the county against the local governmental entity requesting the county's service. An entity may request assistance from the county to comply with provisions of this section, but the county is under no obligation to provide such assistance. For purposes of this section, reasonable fees and costs include but are not limited to the labor costs, material costs, and copying costs incurred while assisting local governmental entities to comply with this section. Such fees and costs may be deducted from any distributions of taxes, fees, or assessments collected by the county on behalf of the local governmental entity.

(6) Audits required by sections 67-450B, 67-450C, and 67-450D, Idaho Code, will be submitted to the online portal and provided by the state controller's office to the legislative services office.

(7) Notification, late fees, and penalties.

(a) If a local governmental entity fails to submit information required by this section or submits noncompliant information required by this section, the state controller must notify the entity immediately after the due date of the information that either the information was not submitted in a timely manner or the information submitted was non-compliant. The local governmental entity then has thirty (30) days from the date of notice to submit the information or notify the state controller that it will comply by a time certain. The state controller may impose a late fee for each day over said thirty (30) days that the local governmental entity has failed to provide the information required under this section. The late fee may be in the amount of up to five hundred dollars (\$500) per day and is immediately payable from the local governmental entity to the state controller's office, which shall deposit the fee in the state general fund.

(b) No later than January 15 of any year, the state controller must notify the appropriate board of county commissioners and the state tax commission of the entity's failure to comply with the provisions of this section. Upon receipt of such notification, the board of county commissioners must place a public notice in a newspaper of general circulation in the county indicating that the entity is noncompliant with the legal reporting requirements of this section. The county commissioners shall assess to the entity the cost of the public notice. Such costs may be deducted from any distributions of taxes, fees, increment financing, or assessments collected by the county on behalf of the local governmental entity. For any noncomplying entity, the state controller must notify the board of county commissioners and the state tax commission of the compliance status of such entity once the entity is in compliance.

(c) A local governmental entity that fails to comply with this section is prohibited from including in its budget any budget increase otherwise permitted by subsection (1)(a) or (e) of section 63-802, Idaho Code.

(d) In addition to any other penalty provided in this section, during any failure to comply with this section, the state tax commission must withhold the quarterly distribution of sales tax distribution pursuant to section 63-3638(10), Idaho Code, for any noncomplying entity. The state tax commission must withhold and retain such money in a reserve account until the state controller certifies that the entity has complied with the provisions of this section, at which point the state tax commission must pay any money owed to the local governmental entity previously in violation of this section.

(e) For any local governmental entity that is a non-taxing district, including entities established pursuant to title 50, Idaho Code, upon notification to the board of county commissioners from the state controller of noncompliance by such entity, the board of county commissioners must convene to determine appropriate compliance measures, including but not limited to the following:

(i) Require a meeting of the board of county commissioners and the entity's governing body wherein the board of county commissioners requires compliance of this section by the entity;

(ii) Assess a noncompliance fee on the noncomplying entity. Such fee may not exceed five thousand dollars (\$5,000). Such fees and costs may be deducted from any distributions of taxes, fees, increment financing, or assessments collected by the county on behalf of the local governmental entity until such time as the entity is in compliance with the requirements of this section and section 67-1075, Idaho Code. The amount of any such fee may not be passed on to persons subject to the jurisdiction of the entity in the form of adjustments to any fee or assessment imposed or collected by the entity. Any fee collected must be deposited into the county's current expense fund; and

(iii) Cause a special audit to be conducted on the entity at the cost of the entity.

(8) The provisions of this section have no impact or effect upon reporting requirements for local governmental entities relating to the state tax commission.

SECTION 7. That Section 31-1509, Idaho Code, be, and the same is hereby amended to read as follows:

31-1509. ACCOUNTING SYSTEM. The system for accounting of receipts, expenditures, and reporting in each county shall meet the criteria of generally accepted accounting principles or the governmental accounting standards board and as the same may be hereafter amended and revised and, upon notification by the state controller, shall conform to the provisions of the uniform accounting manual for local governmental entities as authorized by section 67-1075, Idaho Code.

SECTION 8. That Section 31-1602, Idaho Code, be, and the same is hereby amended to read as follows:

31-1602. DUTIES OF BUDGET OFFICER -- ESTIMATE OF EXPENSES. (1) The county auditor of each county in this state shall be the budget officer of his county, and, as such budget officer, it shall be his duty to compile and prepare a preliminary budget for consideration by the county commissioners of his county, and upon the adoption of the final budget, as hereinafter provided, it shall be his duty to see that the provisions thereof are complied with.

(2) On or before the first Monday in May of each year, the county budget officer shall notify, in writing, each county official, elective or appointive, in charge of any office, department, service, agency, or institution of the county, to file with such budget officer, on or before the third Monday in May thereafter, an itemized estimate showing both the probable revenues from sources other than taxation that will accrue to his office, department, service, agency, or institution during the fiscal year, to which the budget is intended to apply, and all expenditures required by such office, department, service, agency, or institution, for the same period, together with a brief explanatory statement of the request.

(3) Said estimates and reports shall be submitted upon forms furnished by the budget officer showing the entire revenues and expenditures under each classification and subdivision thereof for the two (2) preceding fiscal years, the amount actually received and expended to the second Monday of April of the current fiscal year, and the estimated total receipts and expenditures for the current fiscal year and show any and all estimated balances, at the end of the current fiscal year, in any appropriation available and

applicable to the functions performed by such office, department, service, agency, or institution.

(4) Said estimates of probable expenditures shall be under classifications set by the board of county commissioners, to include, at a minimum, the "Ssalaries, Benefits, and Detail of Other Expenses."

(5) If any county official, elective or appointive, in charge of any office, department, service, agency, or institution has had, or contemplates having, any expenditures, the reports of which ~~can not~~ cannot be properly made under any of the above classifications, the same shall be reported in detail in addition to the information provided for in said forms.

(6) Any official or employee failing or refusing to furnish said estimates or information within the time hereinabove provided in this section shall pay a penalty of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) as may be determined by order of the board of county commissioners, said penalty to be deducted by the county auditor from the next salary warrant due such official or employee and credited to the current expense fund of said county.

(7) In the event of the absence, failure, or disability of any official or employee required to furnish estimates and information, as hereinabove provided in this section, the budget officer may designate any person temporarily in charge of such office, department, service, agency, or institution to furnish said estimates and information required by this ~~act~~ chapter. Provided, however, if for any cause said estimates and information are not filed with the budget officer in proper time to be included in the county budget hereinafter provided for in this chapter, the budget officer shall prepare an estimate of expenditures for any such office, department, service, agency, or institution, so failing to file its estimate, and such estimate so prepared by the budget officer and approved by the county commissioners shall be the budget for that office, department, service, agency, or institution for the fiscal year to which the budget is intended to apply.

(8) Upon notification by the state controller, budget information shall conform to the standards established in the uniform accounting manual for local governmental entities pursuant to section 67-1075, Idaho Code.

SECTION 9. That Section 31-1604, Idaho Code, be, and the same is hereby amended to read as follows:

31-1604. APPROVAL OF TENTATIVE APPROPRIATIONS -- NOTICE -- FINAL APPROPRIATIONS. (1) The suggested budget prepared by the county budget officer as hereinabove provided in this chapter, together with the estimates and information furnished by the various offices, departments, services, agencies, and institutions of the county, shall be submitted by said county budget officer to the board of county commissioners of his county on or before the first Monday in August of each year; said county commissioners shall convene to consider said proposed budget in detail and make any alterations allowable by law and which they deem advisable, and agree upon a tentative amount to be allowed and appropriated for the ensuing fiscal year to each office, department, service, agency, or institution of the county. Such allowances or appropriations shall be made under the classifications of:

"Salaries" or "Ssalaries and Benefits," and

"Detail of Other Expenses," or "Detail of Other Expenses and Benefits," and may include "Benefits," as a separate category as hereinafter provided in this chapter.

(2) When the commissioners have agreed on such tentative appropriations, the county budget officer, not later than the third week in August, shall cause notice to be published setting forth the amount of anticipated revenue from property taxes and the total of revenues anticipated from sources other than property taxes and the amount proposed to be appropriated to each office, department, service, agency, or institution for the ensuing

fiscal year, in not less than two (2) classifications and which shall include "\$salaries," or "\$salaries and Bbenefits," and "Ddetail of Oother Eexpenses," or "Ddetail of Oother Eexpenses and Bbenefits," and which may include "Bbenefits" as a separate classification together with the amounts expended under these classifications during each of the two (2) previous fiscal years by each office, department, service, agency, or institution; and. The notice shall also provide that the board of county commissioners will meet on or before the Tuesday following the first Monday in September, next succeeding, for the purpose of considering and fixing a final budget and making appropriations to each office, department, service, agency, or institution of the county for the ensuing fiscal year at which time any taxpayer may appear and be heard upon any part or parts of said tentative budget and fixing the time and place of such meeting. Said notice shall be published in a newspaper as prescribed in section 31-819, Idaho Code.

(3) Upon notification by the state controller, the classification of appropriations shall conform to the standards established in the uniform accounting manual for local governmental entities pursuant to section 67-1075, Idaho Code.

SECTION 10. That Section 31-1606, Idaho Code, be, and the same is hereby amended to read as follows:

31-1606. EXPENDITURE LIMITED BY APPROPRIATIONS -- ROAD AND BRIDGE APPROPRIATIONS -- INCREASE OF SALARIES. (1) The estimates of expenditures as classified in each of the three (3) general classes, "\$salaries," "Bbenefits" and "Ddetail of Oother Eexpenses," required in section 31-1602, Idaho Code, as finally fixed and adopted as the county budget by said board of county commissioners, shall constitute the appropriations for the county for the ensuing fiscal year. Each and every county official or employee shall be limited in making expenditures or the incurring of liabilities to the respective amounts of such appropriations. Provided, in the case of road and bridge appropriations, other than "\$salaries" and "Bbenefits," any lawful transfer deemed necessary may be made by resolution formally adopted by the board of county commissioners at a regular or special meeting thereof, which action must be entered upon the minutes of said board; provided, further, that no salary may be increased during the ensuing year after the final budget is adopted, without resolution of the board of county commissioners, which resolution shall be entered upon their in the minutes.

(2) Upon notification by the state controller, budget and appropriations information shall conform to the standards established in the uniform accounting manual for local governmental entities pursuant to section 67-1075, Idaho Code.

SECTION 11. That Section 31-2101, Idaho Code, be, and the same is hereby amended to read as follows:

31-2101. DUTIES OF COUNTY TREASURER. The county treasurer must:

(1-) Receive all moneys belonging to the county, and all other moneys by law directed to be paid to him, safely keep the same, and apply and pay them out, rendering account thereof as required by law;

(2-) File and keep the certificates of the auditor delivered to him when moneys are paid into the treasury;

(3-) Keep an account of the receipt and expenditure of all such moneys in books provided for the purpose, in which must be entered the amount, the time when, from whom, and on what account all moneys were received by him, and the amount, time when, to whom, and on what account all disbursements were made by him;

(4-) So-keep his books so that the amounts received and paid out on account of separate funds or specific appropriations are exhibited in separate

and distinct accounts, and the whole receipts and expenditures are shown in one general or cash account. Upon notification by the state controller, county financial records shall conform to the standards established in the uniform accounting manual for local governmental entities pursuant to section 67-1075, Idaho Code;

(5-) Enter no moneys received for the current year on his account with the county for the past fiscal year, until after his annual settlement for the past year has been made with the county auditor-; and

(6-) Disburse the county moneys only on county warrants issued by the county auditor, based on orders of the board of commissioners or as otherwise provided by law.

SECTION 12. That Section 31-3620, Idaho Code, be, and the same is hereby amended to read as follows:

31-3620. ACCOUNTS AND REPORTS OF PERSON IN CHARGE. The person in charge of the county hospital shall keep a correct account of all receipts and expenditures in connection therewith, and make full and complete reports thereof quarterly to the board of county commissioners. Upon notification by the state controller, all records shall be kept according to the provisions of the uniform accounting manual for local governmental entities authorized under section 67-1075, Idaho Code.

SECTION 13. That Section 33-357, Idaho Code, be, and the same is hereby amended to read as follows:

33-357. CREATION OF INTERNET-BASED EXPENDITURE WEBSITE. (1) As used in this section, unless otherwise required:

(a) "Education provider" means:

- (i) A school district, including a specially chartered district organized and existing pursuant to law;
- (ii) A cooperative services agency or intermediate school district;
- (iii) A public charter school authorized pursuant to state law; or
- (iv) A publicly funded governmental entity established by the state for the express purpose of providing online courses.

(b) "Entity" means a corporation, association, union, limited liability company, limited liability partnership, grantee, contractor, local government, or other legal entity, including a nonprofit corporation or an employee of the education provider.

(c) "Internet-based website" means a website developed and maintained by the state controller pursuant to section 67-1075, Idaho Code.

(d) "ISEE" means the Idaho system for educational excellence or a successor system.

(e) "Public record" shall have the same meaning as set forth in chapter 1, title 74, Idaho Code.

(2) ~~(a) No later than December 1, 2011, e~~Each education provider shall develop and maintain a publicly available website where, as part of its ISEE data submissions, submit the education provider's expenditures are posted in a nonsearchable PDF format, a searchable PDF format, a spreadsheet or in a database format and revenues accompanying general ledger codes consistent with the Idaho financial accounting reporting management system or a successor system to the state board of education on a schedule determined by the board. Within ten (10) business days of receiving such submission, the state board of education must transmit the full submission to the office of the state controller, which must then correlate the education provider's data to the uniform accounting system created pursuant to section 67-1075, Idaho Code, for posting on the state controller's website.

(b) The internet-based website shall include the following data concerning all expenditures made by the education provider:

- (i) The name and location or address of the entity receiving moneys;
- (ii) The amount of expended moneys;
- (iii) The date of the expenditure; and
- (iv) A description of the purpose of the expenditure, unless the expenditure is self-describing;
- ~~(v) Supporting contracts and performance reports upon which the expenditure is related when these documents already exist;~~
- ~~(vi) To the extent possible, a unique identifier for each expenditure;~~
- ~~(vii) The annual budget approved by the education provider's governing board, to be posted within thirty (30) days after its approval; and~~
- ~~(viii) Any current master labor agreements approved by the education provider's governing board.~~

(c) The expenditure data shall be provided in an open structured data format that may be downloaded by the user.

(d) The internet-based website shall contain only information that is a public record or that is not confidential or otherwise exempt from public disclosure pursuant to state or federal law.

(3) (a) ~~The education provider shall state controller must:~~

- (ai) Update the expenditures contained on the internet-based website at least monthly; upon receiving a new transmission from the state board of education; and
- (bii) Archive all expenditures, which shall remain accessible and on the internet-based website for a number of years, consistent with state law regarding keeping and retention of records;

(eb) The education provider shall:

- (i) Make Link to the internet-based website easily accessible from the main page of the education provider's website; and
- (dii) Post the following on the education provider's website:
 1. Supporting contracts and performance reports upon which the expenditure is related when these documents already exist;
 2. The annual budget approved by the education provider's governing board, to be posted within thirty (30) days after its approval; and
 3. Any current master labor agreements approved by the education provider's governing board.

(c) The internet-based website shall include those records beginning on the effective date of this act on July 1, 2011 referenced in this section according to the schedule set forth pursuant to section 67-1075, Idaho Code, and all data prior to that date shall be available by way of a public records request.

SECTION 14. That Section 39-414A, Idaho Code, be, and the same is hereby amended to read as follows:

39-414A. AUDIT OF HEALTH DISTRICT FINANCES. It shall be the duty of each district board of health to cause to be made a full and complete audit of all the financial transactions of the health district no less frequently than every two (2) years. Such audit shall be made by ~~or under the direction~~ of the legislative council services office, pursuant to section 67-702, Idaho Code, in accordance with generally accepted auditing standards and procedures. The district board of health shall include all necessary expenses for such audit in its budget.

SECTION 15. That Section 50-208, Idaho Code, be, and the same is hereby amended to read as follows:

50-208. DUTIES OF TREASURER -- RECORD OF OUTSTANDING BONDS. (1) The treasurer of each city shall be the custodian of all moneys belonging to the city. He shall account for each fund or appropriation made in its annual budget appropriation or otherwise directed by the city council. Such accounting shall track the debits and credits relating thereto. The treasurer shall on a monthly basis, and no more than sixty (60) days after the conclusion of each month at a regular meeting of the city council, render an accounting to the city council showing the financial condition of the treasury at the date of such accounting. The report shall state the balances of accounts maintained in the city's treasury. The treasurer shall also make available credit and debit details of all such accounts when required by the mayor or by action of the governing board. Making the quarterly treasurer's report available for public review on the city's website within thirty (30) days of the conclusion of each quarter shall satisfy publication requirements established by section 50-1011, Idaho Code.

(2) The treasurer shall also keep a record of all outstanding bonds against the city showing the number, amount of each, and to whom said bonds were issued, and when any bonds are purchased, paid, or canceled. In his annual report, the treasurer shall describe particularly the bonds issued and sold during the year and the fiscal terms of the sale including the expenses related thereto.

(3) Upon notification by the state controller, the treasurer shall comply with the accounting and fiscal reporting requirements set forth in the uniform accounting manual for local governmental entities authorized under section 67-1075, Idaho Code.

SECTION 16. That Section 50-1002, Idaho Code, be, and the same is hereby amended to read as follows:

50-1002. ANNUAL BUDGET. (1) The city council of each city shall, prior to passing the annual appropriation ordinance, prepare a budget, estimating the probable amount of money necessary for all purposes for which an appropriation is to be made, including interest and principal due on the bonded debt and sinking fund, itemizing and classifying the proposed expenditures by department, fund, or service, as nearly as may be practicable, and specifying any fund balances accumulated under section 50-1005A, Idaho Code. To support such proposed expenditure, the council shall prepare an estimate of the total revenue anticipated during the ensuing fiscal year for which a budget is being prepared classifying such receipts by source as nearly as may be possible and practicable, said estimate to include any surplus not subject to the provisions of sections 50-1004 and 50-1005A, Idaho Code, nor shall said estimated revenue include funds accumulated under section 50-236, Idaho Code. The proposed budget for the ensuing fiscal year shall list expenditures and revenues during each of the two (2) previous fiscal years by fund and/or department. Following tentative approval of the revenues and expenditures estimated by the council, the same shall be entered at length in the journal of proceedings. Prior to certifying to the county commissioners, a notice of time and place of public hearing on the budget, which notice shall include the proposed expenditures and revenues by fund and/or department, including the two (2) previous fiscal years, and a statement of the estimated revenue from property taxes and the total amount from sources other than property taxes of the city for the ensuing fiscal year, shall be published twice at least seven (7) days apart in the official newspaper. At said hearing, any interested person may appear and show cause, if any he has, why such proposed budget should or should not be adopted.

(2) Upon notification by the state controller, budget information shall conform to the standards established in the uniform accounting manual for local governmental entities pursuant to section 67-1075, Idaho Code.

SECTION 17. That Section 50-2006, Idaho Code, be, and the same is hereby amended to read as follows:

50-2006. URBAN RENEWAL AGENCY.

(1) (a) There is hereby created in each municipality an independent public body corporate and politic to be known as the "urban renewal agency" that was created by resolution as provided in section 50-2005, Idaho Code, before July 1, 2011, for the municipality; provided, that such agency shall not transact any business or exercise its powers hereunder until or unless:—(1) the local governing body has made the findings prescribed in section 50-2005, Idaho Code; and provided further, that such

(b) An urban renewal agency created after July 1, 2011, shall not transact any business or exercise its powers provided for in this chapter until (2) a majority of qualified electors, voting in a citywide or countywide election, depending on the municipality in which such agency is created, vote to authorize such agency to transact business and exercise its powers provided for in this chapter. If prior to July 1, 2011, the local governing body has made the findings prescribed in subsection paragraph (a) (1) of this subsection, then such agency shall transact business and shall exercise its powers hereunder and is not subject to the requirements of subsection (a) (2) of this section this paragraph.

(b2) Upon satisfaction of the requirements under subsection (a1) of this section, the urban renewal agency is authorized to transact the business and exercise the powers hereunder by a board of commissioners to be established as follows:

(1a) Unless provided otherwise in this section, the mayor, by and with the advice and consent of the local governing body, shall appoint a board of commissioners of the urban renewal agency, which shall consist of not less than three (3) commissioners nor more than nine (9) commissioners. In the order of appointment, the mayor shall designate the number of commissioners to be appointed, and the term of each, provided that the original term of office of no more than two (2) commissioners shall expire in the same year. The commissioners shall serve for terms not to exceed five (5) years, from the date of appointment, except that all vacancies shall be filled for the unexpired term.

(2b) For inefficiency or neglect of duty or misconduct in office, a commissioner may be removed by a majority vote of the local governing body only after a hearing and after he shall have been given a copy of the charges at least ten (10) days prior to such hearing and have had an opportunity to be heard in person or by counsel. Any commission position that becomes vacant at a time other than the expiration of a term shall be filled by the mayor or chair of the board of county commissioners, if that is the local governing body, by and with the advice and consent of the local governing body, including the mayor, if applicable, and shall be filled for the unexpired term.

(3c) By enactment of an ordinance, the local governing body may appoint and designate, from among its members, to be members of the board of commissioners of the urban renewal agency, provided that such representation shall be less than a majority of the board of commissioners of the urban renewal agency of the members of the local governing body on and after July 1, 2017, in which case all the rights, powers, duties, privileges, and immunities vested by the urban renewal law of 1965, and as amended, in an appointed board of commissioners, shall be vested in the local governing body, who which shall, in all respects when acting

as an urban renewal agency, be acting as an arm of state government, entirely separate and distinct from the municipality, to achieve, perform, and accomplish the public purposes prescribed and provided by said urban renewal law of 1965, and as amended.

(4d) By enactment of an ordinance, the local governing body may terminate the appointed board of commissioners and thereby appoint and designate itself as the board of commissioners of the urban renewal agency for not more than one (1) calendar year.

(5e) By enactment of an ordinance, the local governing body may provide that the board of commissioners of the urban renewal agency shall be elected at an election held for such purpose on one (1) of the November dates provided in section 34-106, Idaho Code, and the ordinance may provide term limits for the commissioners. In this case, all the rights, powers, duties, privileges, and immunities vested by the urban renewal law of 1965, and as amended, in an appointed board of commissioners, shall be vested in the elected board of commissioners of the urban renewal agency, ~~who~~ which shall, in all respects when acting as an urban renewal agency, be acting as an arm of state government, entirely separate and distinct from the municipality, to achieve, perform, and accomplish the public purposes prescribed and provided by said urban renewal law of 1965, and as amended. The provisions of chapter 66, title 67, Idaho Code, shall apply to elected commissioners, and the county election law shall apply to the person running for commissioner as if ~~they~~ the person were running for county commissioner. In the event of a vacancy in an elected commissioner position, the replacement shall be appointed by the mayor or chair of the board of county commissioners, if that is the local governing body, by and with the advice and consent of the local governing body, and shall be filled for the unexpired term.

(63) In all instances, a member of the board of commissioners of the urban renewal agency must be a resident of the county where the urban renewal agency is located or is doing business.

(e4) A commissioner shall receive no compensation for his services but shall be entitled to the necessary expenses, including ~~traveling~~ travel expenses, incurred in the discharge of his duties. Each commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk of the municipality and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner.

(5) (a) The powers of an urban renewal agency shall be exercised by the commissioners thereof. A majority of the commissioners shall constitute a quorum for the purpose of conducting business and exercising the powers of the agency and for all other purposes. Action may be taken by the agency upon a vote of a majority of the commissioners present, unless in any case the bylaws shall require a larger number.

(b) The commissioners shall elect the chairman, cochairman, or vice chairman for a term of one (1) year from among their members. An agency may employ an executive director, technical experts, and such other agents and employees, permanent and temporary, as it may require, and determine their qualifications, duties, and compensation. For such legal service as it may require, an agency may employ or retain its own counsel and legal staff.

(c) An agency authorized to transact business and exercise powers under this chapter shall file, with the local governing body, on or before March 31 of each year a report of its activities for the preceding calendar year, which report shall include ~~a complete the financial statement setting forth its assets, liabilities, income and operating expense as of the end of such calendar year data and audit reports required under sections 67-1075 and 67-1076, Idaho Code.~~ The agency shall be required to hold a public meeting to report these findings and take

comments from the public. At the time of filing the report, the agency shall publish in a newspaper of general circulation in the community a notice to the effect that such report has been filed with the municipality and the state controller and that the report is available for inspection during business hours in the office of the city clerk or county recorder and, in the office of the agency, and at all times on the web-site of the state controller.

(d) An urban renewal agency shall have the same fiscal year as a municipality and shall be subject to the same audit requirements as a municipality. An urban renewal agency shall be required to prepare and file with its local governing body an annual financial report and shall prepare, approve, and adopt an annual budget for filing with the local governing body, for informational purposes. A budget means an annual estimate of revenues and expenses for the following fiscal year of the agency.

(e6) An urban renewal agency shall comply with the public records law pursuant to chapter 1, title 74, Idaho Code, open meetings law pursuant to chapter 2, title 74, Idaho Code, the ethics in government law pursuant to chapter 4, title 74, Idaho Code, and the competitive bidding provisions of chapter 28, title 67, Idaho Code.

SECTION 18. That Section 67-450C, Idaho Code, be, and the same is hereby amended to read as follows:

67-450C. INDEPENDENT FINANCIAL AUDITS OF AFFILIATED ORGANIZATIONS TO STATE GOVERNMENTAL AGENCIES OR ENTITIES -- FILING REQUIREMENTS. (1) The requirements set forth in ~~this section~~ 67-450B(2), Idaho Code, are minimum audit requirements for all affiliated organizations to state governmental entities, and include, without limitation, all state departments, commissions, institutions, colleges, or universities, ~~which are created pursuant to statute or the constitution and which~~ that receive an appropriation from the legislature.

(2) As used in this section, "affiliated organization" means an organization affiliated with an agency or entity of state government ~~which~~ that meets all of the following criteria:

(a) The organization has separate legal standing, where neither direct association through appointment of a voting majority of the organization's body nor fiscal dependency exists;

(b) The affiliation with a specific primary state government agency or entity is set forth in the organization's articles of incorporation by reference to the name of the primary state government agency or entity in describing the purposes for which the organization was established; and

(c) The affiliation with a specific primary state government agency or entity is set forth in the organization's application to the internal revenue service for exemption for payment of federal income tax pursuant to the ~~Internal Revenue Code~~ Code by reference to the name of the primary government in response to any of the questions contained in the exemption application, and the organization has been granted that exemption.

(3) Audits under these requirements are to be performed by independent auditors in accordance with generally accepted governmental auditing standards, as defined by the United States general accounting office. The auditor shall be employed on written contract.

(4) The affiliated organization's governing body shall be required to include in its annual budget all necessary expenses for carrying out the provisions of this section.

(5) The affiliated organization shall file one (1) copy of each completed audit report with the legislative services office within nine (9) months after the end of the audit period.

~~(2) The minimum requirements for any audit performed under the provisions of this section are:~~

~~(a) The governing body of an affiliated organization whose annual expenditures (from all sources) exceeds 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) The governing body of an affiliated organization whose annual expenditures (from all sources) exceed one hundred thousand dollars (\$100,000), but do not exceed two hundred fifty thousand dollars (\$250,000) may elect to have its financial statements audited on a biennial basis and may continue biennial auditing cycles in subsequent years as long as the organization's annual expenditures do not exceed two hundred fifty thousand dollars (\$250,000) during either year of any biennial period. Biennial audits shall include an audit of each fiscal year since the previous audit.~~

~~(c) The governing body of an affiliated organization whose annual expenditures (from all sources) do not exceed one hundred thousand dollars (\$100,000) has no minimum audit requirements under this section.~~

(d6) Federal audit requirements applicable because of expenditure of federal assistance supersede the minimum audit requirements provided referenced in subsection (1) of this section.

SECTION 19. 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 in this section, beginning on July 1, 201021, the requirements set forth in this section 67-450B(2), Idaho Code, shall constitute the minimum audit requirements for the following entities:

- (a) Alfalfa and clover seed commission;
- (b) Idaho apple commission;
- (c) Idaho barley commission;
- (d) Idaho bean commission;
- (e) Idaho beef council;
- (f) Idaho cherry commission;
- (g) Idaho dairy products commission;
- (h) Idaho food quality assurance institute;
- (i) Idaho forest products commission;
- (j) Idaho grape growers and wine producers commission;
- (k) Idaho honey commission;
- (l) Idaho hop grower's commission;
- (m) Idaho mint commission;
- (n) Idaho oilseed commission;
- (o) Idaho pea and lentil commission;
- (p) Idaho potato commission;
- (q) Idaho rangeland resource commission; and
- (r) 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 referenced in subsection (1) of 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~~ local governmental entities central registry pursuant to section 67-1076, Idaho Code, and to the senate agricultural affairs committee and the house of representatives 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 of representatives 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 20. That Section 67-702, Idaho Code, be, and the same is hereby amended to read as follows:

67-702. AUDIT FUNCTION OF LEGISLATIVE SERVICES OFFICE. (1) The legislative services office at the direction of the legislative council has authority to:

(a) Perform an annual audit of the statewide annual financial report prepared by the state controller in accordance with generally accepted government auditing standards;

(b) Perform an annual audit of federal financial assistance provided to the state that meets the requirements established by the federal government;

(c) Perform a management review of each executive department of state government at least once in a three (3) year period. Management reviews shall cover the period since the last review and may include evaluation of internal controls over financial and program activities and other matters related to the department's operations;

(d) Provide audit services to any unit of state government or public institution that requests services, if authorized by the legislative council;

(e) Report to the attorney general all facts which that may indicate malfeasance, illegal expenditure of public funds, or misappropriation of public funds or public property for such investigation or action, civil or criminal, as the attorney general may deem necessary. The governor and state controller shall also be notified when the report is made to the attorney general pursuant to this subsection. The legislature shall be informed through the regular audit process pursuant to section 67-429, Idaho Code;

(f) ~~Be the official repository of all audit reports of the state and political subdivisions that are required to be audited pursuant to sections 67-450B and 67-450C, Idaho Code.~~ Perform an audit of any local governmental entity, as defined in section 67-1076, Idaho Code, at the request of the legislative council or the committee on uniform accounting and transparency for local governmental entities established in section 67-448, Idaho Code; and

(g) Report to the legislature annually no later than February 1 of each year on all land exchanged by the state board of land commissioners pursuant to section 58-138, Idaho Code, during the preceding year, and all appraisals and review appraisals conducted on such state endowment land exchanges pursuant to the provisions of section 58-138, Idaho Code.

(2) The legislative council reserves the right to audit or examine any and every fund in the state treasury and any institution, association, board, or other defined entity created by, or that receives an appropriation from, the legislature.

SECTION 21. That Section 67-1001, Idaho Code, be, and the same is hereby amended to read as follows:

67-1001. DUTIES OF CONTROLLER. It is the duty of the state controller:

(1) To superintend the fiscal concerns of the state, with its accounting, informational, payroll, and related data processing services.

(2) To deliver to the governor and the legislative services office on or before the first day of January, a financial statement, ~~which that~~ complies with generally accepted accounting principles, of the funds of the state, its revenues, and of the public expenditures during the preceding fiscal year.

(3) When requested, to give information in writing to either house of the legislature relating to the fiscal affairs of the state or the duties of his office.

(4) To suggest plans and provide internal control standards for the improvement and management of the public revenues, assets, expenditures, and liabilities.

(5) To keep and state all accounts in which the state is interested.

(6) To keep an account of all warrants drawn upon the treasurer, and a separate account under the head of each specified appropriation, showing at all times the unexpended balance of such appropriation.

(7) To keep an account between the state and the treasurer, and therein to charge the treasurer with the balance in the treasury when he came into office and with all moneys received by him, and to credit him with all warrants drawn on and paid by him.

(8) To keep a register of warrants, showing the fund or funds upon which they are drawn, the number, in whose favor, the appropriation applicable to the payment thereof, and when the liability accrued.

(9) To examine and settle the accounts of all persons indebted to the state.

(10) In his discretion, to require any person presenting an account for settlement to be sworn before him, and to answer, orally or in writing, as to any facts relating to it the account for settlement.

(11) To require all persons who have received any moneys belonging to the state, and have not accounted therefor, to settle their accounts.

(12) To account for the collection of all moneys due the state, not the responsibility of any other agency and institute suits in its name for all official delinquencies in relation to assessment, collection and payment of the revenue, and against persons who by any means have become possessed of public money or property and fail to pay over or deliver the same, and against all debtors of the state, of which suits the courts of Ada County have jurisdiction, without regard to the residence of the defendants.

(13) To draw warrants on the treasurer for the payment of moneys directed by law to be paid out of the treasury; but no warrant must be drawn unless authorized by law.

(14) To furnish the state treasurer with a daily total dollar amount, by fund, and/or account when requested by the state treasurer, of warrants drawn upon the treasury.

(15) To authenticate with his signature, his electronic signature, or his facsimile signature all warrants drawn by him, and all copies of official documents issued from his office.

(16) To charge the state treasurer with money and evidences of indebtedness received from, and to credit him for money drawn by, the state board of land commissioners in the moneys or accounts over which said board has control.

(17) To act ex officio as member of the state board of canvassers and state board of land commissioners, secretary of the state board of examiners, and participant in other organizations in the performance of such duties as prescribed by law for such officer.

(18) To create and establish such divisions and other administrative units within the office as necessary.

(19) To be the official repository of all audit reports of the state and political subdivisions that are required to be audited pursuant to sections 67-450B, 67-450C, and 67-450D, Idaho Code.

SECTION 22. Sections 1 through 4 and Sections 7 through 21 of this act shall be in full force and effect on and after July 1, 2021. Sections 5 and 6 of this act shall be in full force and effect on and after January 1, 2022.

Approved March 18, 2021

CHAPTER 90
(S.B. No. 1060)

AN ACT

RELATING TO PUBLIC HEALTH DISTRICTS; AMENDING SECTION 39-414, IDAHO CODE, TO PROVIDE FOR THE APPROVAL AND EXTENSION OF CERTAIN ORDERS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 39-419, IDAHO CODE, TO PROVIDE FOR AN INFRACTION, TO REMOVE PROVISIONS REGARDING ASSOCIATIONS AND CORPORATIONS, AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 39-414, Idaho Code, be, and the same is hereby amended to read as follows:

39-414. POWERS AND DUTIES OF DISTRICT BOARD. The district board of health shall have and may exercise the following powers and duties:

(1) To administer and enforce all state and district health laws, regulations, and standards.

(2) To do all things required for the preservation and protection of the public health and preventive health, and such other things delegated by the director of the state department of health and welfare or the director of the department of environmental quality, and this shall be authority for the director(s) to so delegate. An order of a district board of health will take effect immediately. However, notwithstanding the provisions of this subsection, if an order applies to all persons in a county or a public health district, the board of county commissioners within each affected county, after consulting with the district board of health, will determine by resolution whether or not to approve the order within county limits within seven (7) days of the date of the order. If the board of county commissioners approves the order, then the order will take effect immediately for a period of thirty (30) days. Thereafter, the order may be extended, amended, or modified and reimposed for thirty (30) day periods, subject to approval by the board of county commissioners.

(3) To determine the location of its main office and to determine the location, if any, of branch offices.

(4) To enter into contracts with any other governmental or public agency whereby the district board agrees to render services to or for such agency in exchange for a charge reasonably calculated to cover the cost of rendering such service. This authority is to be limited to services voluntarily rendered and voluntarily received and shall not apply to services required by statute, rule, and regulations, or standards promulgated pursuant to this act ~~chapter~~ or chapter 1, title 39, Idaho Code.

(5) To deposit aAll moneys or payment received or collected by gift, grant, devise, or any other way shall ~~be deposited~~ to the respective division or subaccount of the public health district in the public health district fund authorized by section 39-422, Idaho Code.

(6) To establish a fiscal control policy required by the state controller.

(7) To cooperate with the state board of health and welfare, the department of health and welfare, the board of environmental quality and the department of environmental quality.

(8) To enter into contracts with other governmental agencies, and this ~~act~~ ~~chapter~~ hereby authorizes such other agencies to enter into contracts with the health district, as may be deemed necessary to fulfill the duties imposed upon the district in providing for the health of the citizens within the district.

(9) To purchase, exchange or sell real property and construct, rent, or lease such buildings as may be required for the accomplishment of the duties imposed upon the district and to further obtain such other personal property as may be necessary to its functions.

(10) To accept, receive and utilize any gifts, grants, or funds and personal and real property that may be donated to it for the fulfillment of the purposes outlined in this act chapter.

(11) To establish a charge whereby the board agrees to render services to or for entities other than governmental or public agencies for an amount reasonably calculated to cover the cost of rendering such service.

(12) To enter into a lease of real or personal property as lessor or lessee, or other transaction, with the Idaho health facilities authority for a term not to exceed ninety-nine (99) years upon a determination by the district board that the real or personal property to be leased is necessary for the purposes of the district, and to pledge nontax revenues of the district to secure the district's obligations under such leases. For the purposes of this chapter, a public health district is not a subdivision of the state and shall be considered an independent body corporate and politic pursuant to section 1, article VIII, of the constitution of the state of Idaho, and is not authorized hereby to levy taxes nor to obligate the state of Idaho concerning such financing.

(13) To administer and certify solid waste disposal site operations, closure, and post-closure procedures established by statute or regulation in accordance with provisions of chapter 74, title 39, Idaho Code, in a manner equivalent to the site certification process set forth in section 39-7408, Idaho Code.

(14) To select a board member to serve as trustee on the board of trustees of the Idaho district boards of health.

SECTION 2. That Section 39-419, Idaho Code, be, and the same is hereby amended to read as follows:

39-419. VIOLATION OF PUBLIC HEALTH LAWS -- MISDEMEANOR -- CIVIL LIABILITY FOR EXPENSE -- INFRACTION. (1) It shall be unlawful for any person, ~~association, or corporation,~~ and the officers thereof to willfully violate, disobey, or disregard the provisions of the public health laws or the terms of any lawful notice, order, standard, rule, regulation, or ordinance issued pursuant thereto; ~~or.~~

(2) Any person, ~~association, or corporation,~~ or the officers thereof, violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding three hundred dollars (\$300), or by imprisonment in the county jail for a term not exceeding six (6) months, or by both such fine and imprisonment. In addition to fine and imprisonment, any person, ~~association or corporation,~~ or the officers thereof, found to be in violation of this act chapter or the rules promulgated thereunder shall be liable for any expense incurred by the district board of health in enforcing this act chapter, or in removing or terminating any nuisance, source of filth, cause of sickness, or health hazard. Conviction under the penalty provisions of this act chapter or any other health law or rules promulgated thereunder shall not relieve any person from any civil action in damages that may exist for any injury resulting from any violation of the public health laws or rules promulgated by the district board of health.

(3) A violator of any law or rule within the jurisdiction of the district shall be liable in an amount not in excess of the limits prescribed in section 39-108, Idaho Code. The district board may seek recovery by commencing an action in the district court of the county wherein the violation occurred. Amounts recovered shall be deposited as required by the provisions of section 39-414(5), Idaho Code.

(4) Notwithstanding the provisions of subsection (2) of this section, if an order is applicable to all persons in a county or a public health district, then a person who willfully violates such order is guilty of an infraction punishable by a fine of fifty dollars (\$50.00). No court costs or fees apply to such infraction.

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

Approved March 19, 2021

CHAPTER 91
(H.B. No. 91)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-1103, IDAHO CODE, TO REVISE PROVISIONS REGARDING BAIT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 36-1103, Idaho Code, be, and the same is hereby amended to read as follows:

36-1103. FUR-BEARING ANIMALS -- SEASONS -- METHODS -- AMOUNTS. No person shall trap or take by any method or means and at any place or time or in any amount, or to have in possession any wild fur-bearing animals or pelts thereof, except as permitted by provisions of this title and commission rules and proclamations promulgated pursuant thereto.

(a) ~~Trapping -- Fur-bearing Animals.~~ No person shall:

1. Use any ~~part~~ edible portions as defined in section 36-1202, Idaho Code, of a game bird, game animal, or game fish for bait in trapping or taking of any wildlife, except wildlife parts salvaged pursuant to section 36-506, Idaho Code, may be used for bait in trapping wildlife.
2. Destroy, disturb, or remove the trap or traps of any licensed trapper within this state, provided, however, that the director may inspect such traps and seize same when unlawfully set.

(b) Seizure and Sale of Unclaimed Traps. Traps or other trapping equipment unlawfully set shall be seized by the director or any officer charged with the enforcement of the wildlife laws and may be sold, and the moneys of such sale shall be credited to the state fish and game fund account.

(c) Muskrat House Protected. No person shall trap in or on or ~~to~~ destroy or damage any muskrat house at any time. For the purpose of this section, what is known as a push-up is not construed to be a muskrat house in the sense of the law pertaining to trapping in or on muskrat houses.

Approved March 19, 2021

CHAPTER 92
(H.B. No. 93)

AN ACT

RELATING TO PARKS AND RECREATION; AMENDING SECTION 67-4223, IDAHO CODE, TO REVISE PROVISIONS REGARDING CERTAIN FEES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-4223, Idaho Code, be, and the same is hereby amended to read as follows:

67-4223. POWERS OF BOARD. The park and recreation board shall:

(1) Adopt, amend or rescind rules as may be necessary for the proper administration of the provisions of section 67-4218, et seq., Idaho Code, and the use and protection of park and recreational areas subject to its jurisdiction. A violation of any rule promulgated by the board pursuant to this provision that concerns the use and protection of park and recreation areas is an infraction.

(2) Make expenditures for the acquisition, leasing, care, control, supervision, improvement, development, extension and maintenance of all lands under the control of the department and to make arrangements, agreements, contracts or commitments, which may or may not involve expenditures or transfer of funds, with the head of any state institution, department or agency for the improvement or development of lands or properties under the control of the board, or any other department or agency of the state of Idaho.

(3) Appoint advisory, local and regional park and recreational councils, to consider, study and advise in the work of the department for the extension, development, use and maintenance of any areas which are to be considered as future park or recreational sites or which are designated as park recreational areas.

(4) Appoint a six (6) member recreational vehicle advisory committee, who shall be compensated as provided in section 59-509(f), Idaho Code, and act in an advisory capacity to the board on matters relating to the development and improvement of recreational vehicle related facilities and services as provided in subsection (5) of this section. Each member of the advisory committee shall be representative of recreational vehicle users with one (1) from each of the districts described in section 67-4221, Idaho Code. The terms of appointment shall be three (3) years, except that the initial appointees shall commence on the date of appointment and shall be of staggered lengths so that the term of two (2) members will expire annually.

(5) Administer the funds derived from the state recreational vehicle fund established in section 49-448, Idaho Code, to provide financial assistance in the form of grants to public entities for the acquisition, lease, development, improvement, operations and maintenance of facilities and services designed to promote the health, safety and enjoyment of recreational vehicle users. Up to fifteen percent (15%) of the recreational vehicle fund generated each year may be used by the department to defray recreational vehicle program administrative costs. Any moneys unused at the end of the fiscal year shall be returned to the state treasurer for deposit in the recreational vehicle fund.

(6) Cooperate with the United States and its agencies and local governments of the state for the purpose of acquiring, leasing, supervising, improving, developing, extending or maintaining lands which are designated as state parks, state monuments or state recreational areas and to secure agreements or contracts with the United States and its agencies or local governments of the state for the accomplishment of the purposes of section 67-4218, et seq., Idaho Code.

(7) Construct, lease or otherwise establish public park or recreational privileges, facilities and conveniences and to operate said recreational services and to make and collect reasonable charges for their use or to enter into contracts for their operation. The board may discount fees in order to offer use incentives to generate additional revenue for operation of the state park system. The net proceeds derived shall be credited to the park and recreation fund established in section 67-4225, Idaho Code, and are hereby specifically appropriated to defray the cost of the public park or recreational services. The department is specifically authorized to enter into contracts with the United States and its agencies which require that the state expend any excess of revenue above expenses for improvements of the recreational or park area from which the excess was derived.

(a) The board may provide for waiver of fees to any resident of Idaho who is a disabled veteran and whose disability is rated at one hundred percent (100%) or higher, permanent and total.

(b) The board may provide for a reduction of no more than fifty percent (50%) of the fee charged for recreational vehicle camping, effective Monday night through Thursday night, for any senior citizen who possesses a valid federal "golden age passport" or other equivalent successor, as issued by a federally operated facility where an entrance fee is charged.

(c) If any state recognizes senior citizens by offering a special park pass for use in that state, the board may provide for a reduction of no more than fifty percent (50%) of the fee charged for recreational vehicle camping, effective Monday night through Thursday night, for any person who possesses such a state park pass.

(d) Nonresident fees for camping must be substantially double the same camping fees charged to residents at no fewer than five (5) state parks by January 1, 2022. Nonresident entry fees must be substantially double the same entry fees charged to residents at no fewer than five (5) state parks by January 1, 2022. A single park may have more than one (1) nonresident fee substantially doubled. Other than previously made reservations as of the effective date of this act, the minimum number of substantially doubled nonresident fees referenced in this paragraph must be in place by January 1, 2022. The board has the authority to increase fees for nonresidents beyond the fee caps established in the Idaho administrative code and other fees may also be increased for nonresidents if allowed by law and preexisting contractual obligations. Nothing in this paragraph limits the amounts or types of fees the board may charge nonresidents.

(8) Prepare, maintain and keep up to date a comprehensive plan for the provision of the outdoor recreational resources of the state; to develop, operate and maintain or enter into leases or agreements with local governments for the operation and maintenance of outdoor recreational areas and facilities of the state, and to acquire lands, waters and interests in lands and waters for such areas and facilities.

(9) Apply to any appropriate agency or officer of the United States for participation by the department or a political subdivision of the state or the receipt of aid from any federal program respecting outdoor recreation. It may enter into contracts and agreements with the United States or any appropriate agency thereof, keep financial and other records relating thereto and furnish to appropriate officials and agencies of the United States reports and information as may be reasonably necessary to enable officials and agencies to perform their duties under such programs. In connection with obtaining the benefits of any program, the park and recreation board shall coordinate its activities with and represent the interests of all agencies and subdivisions of the state having interests in the planning, development and maintenance of outdoor recreational resources and facilities.

(10) Obligate the state regarding the responsible management of any federal funds transferred to it for the purpose of any federal enactment and, in accordance with the exercise of this responsibility, the state hereby consents to be sued in any United States district court for the recovery of any federal funds that the responsible federal official, department or agency finds have been misused or disposed of contrary to the agreement with the federal official, department or agency or contrary to the provisions of federal enactment or applicable federal regulations.

(11) Cooperate and contract with and receive and expend aid, donations and matching funds from the government of the United States, receive and expend funds from the STORE and to receive and expend donations from other sources to acquire, develop, operate and maintain outdoor recreational areas and facilities of the state and, when authorized or directed by any act of congress or any rule or regulation of any agency of the government of the United States, to expend funds donated or granted to the state of Idaho by the federal government for such purposes.

Provided however, the park and recreation board shall make no commitment or enter into any agreement pursuant to an exercise of authority under section 67-4218, et seq., Idaho Code, until it has determined that sufficient funds are available to it for meeting the state's share, if any, of project costs. It is legislative intent that, to the extent as may be necessary to assure the proper operation and maintenance of areas and facilities acquired or developed pursuant to any program participated in by this state under authority of section 67-4218, et seq., Idaho Code, such areas and facilities shall be publicly maintained for outdoor recreational purposes. The park and recreation board may enter into and administer agreements with the United States or any appropriate agency thereof for planning, acquisition and development projects involving participating federal-aid funds or state funds on behalf of any subdivision or subdivisions of this state. Provided, that the subdivision or subdivisions give necessary assurances to the park and recreation board that they have available sufficient funds to meet their shares, if any, of the cost of the project and that the acquired or developed areas will be operated and maintained at the expense of the subdivision or subdivisions for public outdoor recreational use.

(12) Establish, develop, supervise and maintain through cooperative agreement, lease, purchase or other arrangement the Idaho recreation trail system, with the advice of the coordinator created in section 67-4233, Idaho Code, and consistent with the goals of recreation, transportation and public access to outdoor areas.

(13) Enter into agreements with cities, counties, recreation districts or other political subdivisions of the state to cost-effectively provide recreational facilities, opportunities and services to the citizens of the state.

(14) Have the authority to regulate firearm discharges in state parks for the protection of the public. However, this subsection shall not apply to or affect a person discharging a firearm in the lawful defense of person, persons or property or to a person discharging a firearm in the course of lawful hunting. The possession or carrying of firearms is otherwise regulated by chapter 33, title 18, Idaho Code.

(15) Enter into agreements with private, nonprofit public benefit corporations and other persons, corporations and entities, as may be appropriate, to assist the department in its efforts to secure long-term funding sources for the state park and recreation system to ensure state parks are preserved and open for public use and enjoyment. Such agreements may include, but shall not be limited to, memberships, corporate and individual sponsorships, the sale of advertising, and marketing agreements to fund or promote, in whole or in part, state park and recreation events, programs and facilities. The board may encourage sponsorships by providing appropriate recognition to sponsors consistent with the mission of the department of

parks and recreation as set forth in section 67-4219, Idaho Code. All revenue received from such agreements shall be deposited into the park and recreation fund pursuant to section 67-4225, 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 19, 2021

CHAPTER 93
(H.B. No. 96)

AN ACT

RELATING TO FAMILY LAW LICENSE SUSPENSIONS; AMENDING CHAPTER 14, TITLE 7, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 7-1410A, IDAHO CODE, TO PROVIDE FOR CERTAIN TEMPORARY RESTRICTED LICENSES.

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

SECTION 1. That Chapter 14, Title 7, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 7-1410A, Idaho Code, and to read as follows:

7-1410A. FAMILY LAW TEMPORARY RESTRICTED LICENSE. (1) This section applies to a licensee whose driver's license would otherwise be valid if not for a family law license suspension ordered by a court, licensing authority, or the department pursuant to section 7-1410, Idaho Code. Following an order of suspension pursuant to section 7-1410, Idaho Code, such licensee may petition the court for an order stating that a licensing authority issue a temporary restricted driver's license if such person shows good cause as to why such a license should be issued.

(2) For purposes of this section, a licensee may demonstrate good cause by showing that a temporary restricted driver's license is necessary for the licensee's employment purposes in order to meet child support obligations.

(3) A temporary restricted license shall specify the restrictions as to certain times, days, and areas of use and any further restrictions as the court, in its discretion, may impose.

(4) A temporary restricted license shall be revoked if a licensee holding such license is found to be in violation of the restrictions imposed upon such temporary restricted license.

(5) An order issuing a temporary restricted license by the court shall also state that the temporary restricted licensee is subject to the penalties of the licensing authority if the restrictions of the license are violated.

(6) An order issuing a temporary restricted license by a court shall be forwarded to the appropriate licensing authority.

Approved March 19, 2021

CHAPTER 94
(H.B. No. 99)

AN ACT

RELATING TO WATER QUALITY; AMENDING CHAPTER 36, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3640, IDAHO CODE, TO PROVIDE FOR WATER QUALITY INNOVATION AND POLLUTANT TRADING.

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

SECTION 1. That Chapter 36, 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 39-3640, Idaho Code, and to read as follows:

39-3640. WATER QUALITY INNOVATION AND POLLUTANT TRADING. (1) It is the policy of the state of Idaho to support water quality trading and other voluntary, cost-effective, and innovative means of attaining and maintaining water quality standards established pursuant to this chapter.

(2) The provisions of this title, water quality standards, and total maximum daily loads and discharge permitting shall, where the department deems appropriate, be administered to support opportunities for water quality trading and other voluntary, innovative means of attaining and maintaining water quality standards established pursuant to this chapter.

(3) "Water quality trade" and "water quality trading" mean a voluntary transaction whereby a person who discharges or proposes to discharge a pollutant into a water body pursuant to a permit or license meets regulatory requirements by obtaining pollutant reductions from another source.

(4) The department is authorized to investigate, review, approve, modify, or deny water quality trades, trading frameworks, and the means of verifying water quality pollutant trading and other water quality attainment innovations that contribute to the attainment of water quality standards.

Approved March 19, 2021

CHAPTER 95
(H.B. No. 110)

AN ACT

RELATING TO DEVELOPMENT IMPACT FEES; AMENDING SECTION 67-8204A, IDAHO CODE, TO REVISE PROVISIONS REGARDING INTERGOVERNMENTAL AGREEMENTS.

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

SECTION 1. That Section 67-8204A, Idaho Code, be, and the same is hereby amended to read as follows:

67-8204A. INTERGOVERNMENTAL AGREEMENTS. Governmental entities as defined in section 67-8203(14), Idaho Code, which that are jointly affected by development are authorized to enter into intergovernmental agreements with each other or with highway districts, fire districts, ambulance districts, water districts, sewer districts, recreational water and sewer districts, or irrigation districts for the purpose of developing joint plans for capital improvements or for the purpose of agreeing to collect and expend development impact fees for system improvements, or both, provided that such agreement complies with any applicable state laws. Governmental entities are also authorized to enter into agreements with the Idaho transportation department for the expenditure of development impact fees pursuant to a developer's agreement under section 67-8214, Idaho Code.

Approved March 19, 2021

CHAPTER 96
(H.B. No. 111)

AN ACT

RELATING TO SCHOOL PERSONNEL; AMENDING SECTION 33-514, IDAHO CODE, TO PROVIDE THAT CERTAIN PERSONS SHALL BE HELD AT CATEGORY 3 CONTRACT STATUS AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 33-515, IDAHO CODE, TO REVISE PROVISIONS REGARDING RENEWABLE CONTRACTS.

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

SECTION 1. That Section 33-514, Idaho Code, be, and the same is hereby amended to read as follows:

33-514. ISSUANCE OF ANNUAL CONTRACTS -- SUPPORT PROGRAMS -- CATEGORIES OF CONTRACTS -- OPTIONAL PLACEMENT. (1) The board of trustees shall establish criteria and procedures for the supervision and evaluation of certificated employees who are not employed on a renewable contract, as provided for in section 33-515, Idaho Code.

(2) There shall be three (3) categories of annual contracts available to local school districts under which to employ certificated personnel:

(a) A category 1 contract is a limited ~~one-year~~ one (1) 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. Any employee who has not completed nontraditional route program requirements while on a three (3) year interim certificate and has reached a category 3 contract status may not advance beyond a category 3 contract status and will be held at the category 3 status, regardless of having been continuously employed by the same school district for more than three (3) years, until such time as the nontraditional route program requirements have been met and a five (5) year renewable certificate has been issued. When any such category 3 contract 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 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 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 2. That Section 33-515, Idaho Code, be, and the same is hereby amended to read as follows:

33-515. ISSUANCE OF RENEWABLE CONTRACTS. (1) During the third full year of continuous employment by the same school district, including any specially chartered district, each certificated employee named in subsection (32) of section 33-1001, Idaho Code, and each school nurse and school librarian who has obtained a professional endorsement under section 33-1201A, Idaho Code, 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. Additionally, any individual who has not successfully completed the three (3) year nontraditional route program while on a three (3) year interim certificate and has not yet been issued a five (5) year renewable certificate may not be placed on

a renewable contract. Such individual will remain on a category 3 contract, even after serving three (3) continuous years of employment with the same school district.

(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 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 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 19, 2021

CHAPTER 97
(H.B. No. 149)

AN ACT

RELATING TO THE CORONAVIRUS LIMITED IMMUNITY ACT; AMENDING SECTION 3, CHAPTER 2, LAWS OF 2020, FIRST EXTRAORDINARY SESSION, TO EXTEND THE SUNSET DATE TO JULY 1, 2022.

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

SECTION 1. That Section 3, Chapter 2, Laws of 2020, First Extraordinary Session, be, and the same is hereby amended to read as follows:

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, 2021~~2~~.

Approved March 19, 2021

CHAPTER 98
(H.B. No. 173)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-5904, IDAHO CODE, TO ESTABLISH THE SCHOOL SAFETY AND SECURITY PROGRAM IN THE OFFICE OF THE STATE BOARD OF EDUCATION AND TO REVISE PROVISIONS REGARDING SCHOOL SAFETY AND SECURITY; AMENDING SECTION 33-5905, IDAHO CODE, TO ESTABLISH THE IDAHO SCHOOL SAFETY AND SECURITY ADVISORY BOARD IN THE OFFICE OF THE STATE BOARD OF EDUCATION AND TO PROVIDE THAT THE SUPERINTENDENT OF PUBLIC INSTRUCTION OR THE SUPERINTENDENT'S DESIGNEE WILL BE A MEMBER OF THE ADVISORY BOARD; AND AMENDING SECTION 33-5906, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-5904, Idaho Code, be, and the same is hereby amended to read as follows:

33-5904. OFFICE OF SCHOOL SAFETY AND SECURITY PROGRAM. (1) There is hereby established in the ~~Idaho division of building safety~~ office of the state board of education the ~~office of school safety and security~~ program. The ~~administrator of the division of building safety~~ executive director of the office of the state board of education may hire a manager of the ~~office of school safety and security~~ program who shall be responsible for the performance of the regular administrative functions of the ~~office~~ program and other duties as the ~~administrator~~ executive director may direct. The manager of the ~~office of school safety and security~~ program shall be a non-classified employee. The ~~administrator of the division of building safety~~ executive director of the office of the state board of education 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~~ program as set forth in this section. The ~~administrator~~ executive director of the state board of education shall provide an office, office equipment, and facilities as may be reasonably necessary for the proper performance of the duties of the ~~office~~ program manager and other ~~office~~ program personnel.

(2) The ~~administrator of the division of building safety~~ executive director of the office of the state board of education and the manager and other personnel of the ~~office of school safety and security~~ program 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~~ program 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~~ program shall provide a copy of the report to the local education agency or institution and to the school principal or institution president. The ~~office~~ program 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 program~~ 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 office of the state board of education~~ may receive grant moneys on behalf of the ~~office of school safety and security program~~ to carry out the responsibilities of the ~~office program~~.

(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 school safety and security program's~~ miscellaneous revenue fund 0349-36 for the purposes of this section.

SECTION 2. That Section 33-5905, Idaho Code, be, and the same is hereby amended to read as follows:

33-5905. IDAHO SCHOOL SAFETY AND SECURITY ADVISORY BOARD. (1) There is hereby established in the ~~Idaho division of building safety office of the state board of education~~ 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~~ The state superintendent of public instruction ~~or the superintendent's designee~~;

(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 office of emergency management;

(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.

SECTION 3. That Section 33-5906, Idaho Code, be, and the same is hereby amended to read as follows:

33-5906. 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 program to use in conducting its annual assessments, training, and technical assistance pursuant to section 33-5904, 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.

Approved March 19, 2021

CHAPTER 99
(H.B. No. 262)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 2022; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND EXEMPTING THE APPROPRIATION FROM PROGRAM TRANSFER LIMITATIONS.

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

SECTION 1. There is hereby appropriated to the Department of Correction the following amounts to be expended according to the designated programs and expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR	FOR	FOR	FOR	
	PERSONNEL	OPERATING	CAPITAL	TRUSTEE AND	
	COSTS	EXPENDITURES	OUTLAY	BENEFIT	TOTAL
				PAYMENTS	
I. MANAGEMENT SERVICES:					
FROM:					
General					
Fund	\$9,082,200	\$10,632,800			\$19,715,000
Inmate Labor					
Fund	123,100				123,100
Parolee Supervision					
Fund	247,100	92,300			339,400
Miscellaneous Revenue					
Fund	<u>883,700</u>	<u>553,400</u>			<u>1,437,100</u>
TOTAL	\$10,336,100	\$11,278,500			\$21,614,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. STATE PRISONS:					
A. PRISONS ADMINISTRATION:					
FROM:					
General					
Fund	\$1,435,200	\$580,200			\$2,015,400
Inmate Labor					
Fund		14,100	\$57,800		71,900
Miscellaneous Revenue					
Fund	392,800	161,400			554,200
Penitentiary Endowment Income					
Fund			160,000		160,000
Federal Grant					
Fund	<u>620,100</u>	<u>770,300</u>	<u>0</u>		<u>1,390,400</u>
TOTAL	\$2,448,100	\$1,526,000	\$217,800		\$4,191,900
B. IDAHO STATE CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General					
Fund	\$24,986,000	\$3,429,500			\$28,415,500
Inmate Labor					
Fund		105,100			105,100
Miscellaneous Revenue					
Fund	688,600	254,900	\$42,300		985,800
Penitentiary Endowment Income					
Fund	<u>0</u>	<u>1,065,500</u>	<u>117,300</u>		<u>1,182,800</u>
TOTAL	\$25,674,600	\$4,855,000	\$159,600		\$30,689,200
C. IDAHO STATE CORRECTIONAL CENTER - BOISE:					
FROM:					
General					
Fund	\$23,726,600	\$5,439,100			\$29,165,700
Inmate Labor					
Fund		58,400			58,400
Miscellaneous Revenue					
Fund		506,000			506,000
Penitentiary Endowment Income					
Fund	<u>0</u>	<u>0</u>	<u>\$51,900</u>		<u>51,900</u>
TOTAL	\$23,726,600	\$6,003,500	\$51,900		\$29,782,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
D. IDAHO CORRECTIONAL INSTITUTION - OROFINO:					
FROM:					
General					
Fund	\$8,647,500	\$1,647,200			\$10,294,700
Inmate Labor					
Fund	829,800	534,200	\$62,200		1,426,200
Miscellaneous Revenue					
Fund	70,900	75,800			146,700
Penitentiary Endowment Income					
Fund	<u>0</u>	<u>49,000</u>	<u>79,300</u>		<u>128,300</u>
TOTAL	\$9,548,200	\$2,306,200	\$141,500		\$11,995,900
E. IDAHO MAXIMUM SECURITY INSTITUTION - BOISE:					
FROM:					
General					
Fund	\$11,671,800	\$1,547,300			\$13,219,100
Inmate Labor					
Fund		63,700			63,700
Miscellaneous Revenue					
Fund	73,900	95,500			169,400
Penitentiary Endowment Income					
Fund	<u>0</u>	<u>169,600</u>	<u>\$86,900</u>		<u>256,500</u>
TOTAL	\$11,745,700	\$1,876,100	\$86,900		\$13,708,700
F. NORTH IDAHO CORRECTIONAL INSTITUTION - COTTONWOOD:					
FROM:					
General					
Fund	\$5,313,400	\$1,051,300			\$6,364,700
Inmate Labor					
Fund		52,000			52,000
Miscellaneous Revenue					
Fund	56,300	141,200			197,500
Penitentiary Endowment Income					
Fund	<u>0</u>	<u>218,700</u>	<u>\$27,400</u>		<u>246,100</u>
TOTAL	\$5,369,700	\$1,463,200	\$27,400		\$6,860,300
G. SOUTH IDAHO CORRECTIONAL INSTITUTION - BOISE:					
FROM:					
General					
Fund	\$7,574,700	\$1,916,200			\$9,490,900
Inmate Labor					
Fund	1,386,500	823,800	\$379,500		2,589,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Miscellaneous Revenue					
Fund	133,200	109,800			243,000
Penitentiary Endowment Income					
Fund	<u>0</u>	<u>32,000</u>	<u>329,800</u>		<u>361,800</u>
TOTAL	\$9,094,400	\$2,881,800	\$709,300		\$12,685,500
 H. ST. ANTHONY WORK CAMP:					
FROM:					
General					
Fund	\$4,441,500	\$882,600			\$5,324,100
Inmate Labor					
Fund	1,632,100	944,500	\$335,700		2,912,300
Miscellaneous Revenue					
Fund		21,000			21,000
Penitentiary Endowment Income					
Fund	<u>0</u>	<u>1,900</u>	<u>0</u>		<u>1,900</u>
TOTAL	\$6,073,600	\$1,850,000	\$335,700		\$8,259,300
 I. POCATELLO WOMEN'S CORRECTIONAL CENTER:					
FROM:					
General					
Fund	\$6,096,300	\$928,700			\$7,025,000
Inmate Labor					
Fund	338,500	76,300	\$10,000		424,800
Miscellaneous Revenue					
Fund	251,100	124,900			376,000
Penitentiary Endowment Income					
Fund	<u>0</u>	<u>26,900</u>	<u>238,200</u>		<u>265,100</u>
TOTAL	\$6,685,900	\$1,156,800	\$248,200		\$8,090,900
 J. SOUTH BOISE WOMEN'S CORRECTIONAL CENTER:					
FROM:					
General					
Fund	\$3,853,600	\$592,400			\$4,446,000
Inmate Labor					
Fund	69,700		\$60,100		129,800
Miscellaneous Revenue					
Fund		58,700			58,700
Penitentiary Endowment Income					
Fund	<u>0</u>	<u>7,800</u>	<u>0</u>		<u>7,800</u>
TOTAL	\$3,923,300	\$658,900	\$60,100		\$4,642,300
 DIVISION					
TOTAL	\$104,290,100	\$24,577,500	\$2,038,400		\$130,906,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. COUNTY & OUT-OF-STATE PLACEMENT:					
FROM:					
General					
Fund		\$40,011,800			\$40,011,800
IV. CORRECTIONAL ALTERNATIVE PLACEMENT:					
FROM:					
General					
Fund		\$9,216,400	\$1,231,300		\$10,447,700
Miscellaneous Revenue					
Fund		<u>200,000</u>	<u>0</u>		<u>200,000</u>
TOTAL		\$9,416,400	\$1,231,300		\$10,647,700
V. COMMUNITY CORRECTIONS:					
A. COMMUNITY SUPERVISION:					
FROM:					
General					
Fund	\$20,241,100	\$8,426,900			\$28,668,000
Inmate Labor					
Fund		54,100			54,100
Parolee Supervision					
Fund	5,420,900	1,870,000	\$371,600		7,662,500
Drug Court, Mental Health Court and Family Court Services					
Fund	9,800				9,800
Drug and Mental Health Court Supervision					
Fund	488,700	27,200			515,900
Miscellaneous Revenue					
Fund	96,400				96,400
Federal Grant					
Fund	<u>409,600</u>	<u>95,300</u>	<u>0</u>		<u>504,900</u>
TOTAL	\$26,666,500	\$10,473,500	\$371,600		\$37,511,600
B. COMMUNITY REENTRY CENTERS:					
FROM:					
General					
Fund	\$4,821,600	\$44,100			\$4,865,700
Inmate Labor					
Fund	<u>1,164,400</u>	<u>2,303,400</u>	<u>\$397,400</u>		<u>3,865,200</u>
TOTAL	\$5,986,000	\$2,347,500	\$397,400		\$8,730,900
DIVISION					
TOTAL	\$32,652,500	\$12,821,000	\$769,000		\$46,242,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VI. COMMUNITY-BASED SUBSTANCE ABUSE TREATMENT:					
FROM:					
General					
Fund	\$1,465,400	\$45,800		\$2,846,500	\$4,357,700
VII. MEDICAL SERVICES:					
FROM:					
General					
Fund		\$55,728,100			\$55,728,100
Miscellaneous Revenue					
Fund		<u>135,000</u>			<u>135,000</u>
TOTAL		\$55,863,100			\$55,863,100
GRAND TOTAL	\$148,744,100	\$154,014,100	\$4,038,700	\$2,846,500	\$309,643,400

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Correction is authorized no more than two thousand sixty-one and eighty-five hundredths (2,061.85) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, 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. The Department of Correction is hereby exempted from the provisions of Section 67-3511(2), Idaho Code, allowing unlimited transfers between programs for all moneys appropriated to it for the period July 1, 2021, through June 30, 2022; provided, however, moneys appropriated to the County and Out-of-State Placement Program, Correctional Alternative Placement Program, and Medical Services Program may only be transferred between said programs. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

Approved March 19, 2021

CHAPTER 100
(H.B. No. 272)

AN ACT

RELATING TO THE APPROPRIATION TO THE SUPREME COURT FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE SUPREME COURT FOR FISCAL YEAR 2022; EXEMPTING THE APPROPRIATION FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS; AND PROVIDING REQUIREMENTS FOR RETIREMENT CONTRIBUTIONS.

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

SECTION 1. There is hereby appropriated to the Supreme Court the following amounts to be expended according to the designated programs and expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. COURT OPERATIONS:					
A. SUPREME COURT:					
FROM:					
General					
Fund	\$6,718,000	\$1,379,700		\$225,600	\$8,323,300
Miscellaneous Revenue					
Fund		318,500			318,500
Federal Grant					
Fund	<u>367,400</u>	<u>1,432,800</u>		<u>0</u>	<u>1,800,200</u>
TOTAL	\$7,085,400	\$3,131,000		\$225,600	\$10,442,000
B. COURT OF APPEALS:					
FROM:					
General					
Fund	\$2,328,100	\$50,100			\$2,378,200
C. DISTRICT COURTS:					
FROM:					
General					
Fund	\$17,586,700	\$583,500			\$18,170,200
Court Technology					
Fund	5,628,000	2,058,200	\$3,348,300		11,034,500
Drug Court, Mental Health Court and Family Court Services					
Fund	<u>1,283,000</u>	<u>2,414,600</u>		<u>0</u>	<u>3,697,600</u>
TOTAL	\$24,497,700	\$5,056,300	\$3,348,300		\$32,902,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
D. MAGISTRATE DIVISION:					
FROM:					
General					
Fund	\$17,085,000	\$442,700			\$17,527,700
Drug Court, Mental Health Court and Family Court Services					
Fund	1,076,300	1,190,700			2,267,000
Guardianship Pilot Project					
Fund	310,500	78,300			388,800
Senior Magistrate Judges					
Fund		510,000			510,000
Federal Grant					
Fund	<u>20,400</u>	<u>90,100</u>			<u>110,500</u>
TOTAL	\$18,492,200	\$2,311,800			\$20,804,000
E. WATER ADJUDICATION:					
FROM:					
General					
Fund	\$783,800	\$166,300			\$950,100
F. COMMUNITY-BASED SUBSTANCE ABUSE TREATMENT SERVICES:					
FROM:					
General					
Fund				\$1,048,000	\$1,048,000
Substance Abuse Treatment					
Fund	<u>\$223,400</u>	<u>\$291,200</u>		<u>3,215,500</u>	<u>3,730,100</u>
TOTAL	\$223,400	\$291,200		\$4,263,500	\$4,778,100
G. SENIOR JUDGES:					
FROM:					
General					
Fund	\$1,181,900				\$1,181,900
DIVISION TOTAL	\$54,592,500	\$11,006,700	\$3,348,300	\$4,489,100	\$73,436,600
II. GUARDIAN AD LITEM PROGRAM:					
FROM:					
General					
Fund	\$16,700			\$1,656,700	\$1,673,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. JUDICIAL COUNCIL:					
FROM:					
General					
Fund	\$1,800	\$129,000			\$130,800
GRAND TOTAL	\$54,611,000	\$11,135,700	\$3,348,300	\$6,145,800	\$75,240,800

SECTION 2. EXEMPTIONS FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS. The Supreme Court is hereby exempted from the provisions of Section 67-3511(1), (2), and (3), Idaho Code, allowing unlimited transfers between object codes and between programs for all moneys appropriated to it for the period July 1, 2021, through June 30, 2022. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 3. RETIREMENT CONTRIBUTIONS. Of the amount appropriated in Section 1 of this act from the General Fund for the state's share of retirement contribution remittances to the Judges' Retirement Fund for justices' and judges' retirement benefits pursuant to Section 1-2004(2), Idaho Code, those amounts that are uncommitted shall be transferred monthly into operating expenditures and then paid by the Supreme Court into the Judges' Retirement Fund.

Approved March 19, 2021

CHAPTER 101
(H.B. No. 282)

AN ACT

RELATING TO THE APPROPRIATION TO THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 2022; 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 according to the designated expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$852,800	\$70,800		\$599,200	\$1,522,800
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	21,600	62,900	\$55,800		140,300
Federal Grant					
Fund	<u>2,244,600</u>	<u>593,000</u>	<u>0</u>	<u>470,300</u>	<u>3,307,900</u>
TOTAL	\$3,119,000	\$816,700	\$55,800	\$1,238,900	\$5,230,400

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-one and twelve-hundredths (41.12) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 19, 2021

CHAPTER 102
(H.B. No. 283)

AN ACT

RELATING TO THE APPROPRIATION TO IDAHO PUBLIC TELEVISION FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO IDAHO PUBLIC TELEVISION FOR FISCAL YEAR 2022; 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 according to the designated expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General				
Fund	\$1,618,500	\$758,800	\$341,900	\$2,719,200
Miscellaneous Revenue				
Fund	3,690,600	2,432,900	110,000	6,233,500
Federal COVID-19 Relief				
Fund	67,000	33,000		100,000
Federal Grant				
Fund	<u>314,000</u>	<u>186,000</u>	<u>0</u>	<u>500,000</u>
TOTAL	\$5,690,100	\$3,410,700	\$451,900	\$9,552,700

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, Idaho Public Television is authorized no more than seventy and forty-eight hundredths (70.48) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 19, 2021

CHAPTER 103
(H.B. No. 303)

AN ACT

RELATING TO THE APPROPRIATION TO THE STATE LIQUOR DIVISION FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE STATE LIQUOR DIVISION FOR FISCAL YEAR 2022; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the State Liquor Division the following amounts to be expended according to the designated expense classes from the Liquor Control Fund for the period July 1, 2021, through June 30, 2022:

FOR:	
Personnel Costs	\$15,556,400
Operating Expenditures	3,744,000
Capital Outlay	<u>4,744,400</u>
TOTAL	\$24,044,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the State Liquor Division is authorized no more than two hundred forty-two (242.00) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 19, 2021

CHAPTER 104
(H.B. No. 304)

AN ACT

RELATING TO THE APPROPRIATION TO THE IDAHO STATE LOTTERY FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE IDAHO STATE LOTTERY FOR FISCAL YEAR 2022; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING CONTINUOUS APPROPRIATION AUTHORITY.

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

SECTION 1. There is hereby appropriated to the Idaho State Lottery the following amounts to be expended according to the designated expense classes from the State Lottery Fund for the period July 1, 2021, through June 30, 2022:

FOR:

Personnel Costs	\$3,585,900
Operating Expenditures	2,766,600
Capital Outlay	<u>98,000</u>
TOTAL	\$6,450,500

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Idaho State Lottery is authorized no more than forty-five (45.00) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. CONTINUOUS APPROPRIATION. 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 in accordance with the provisions of Section 67-7428, Idaho Code.

Approved March 19, 2021

CHAPTER 105
(H.B. No. 305)

AN ACT

RELATING TO APPROPRIATIONS; APPROPRIATING ADDITIONAL MONEYS TO THE REGULATORY BOARDS FOR FISCAL YEAR 2021; APPROPRIATING ADDITIONAL MONEYS TO THE MEDICAL BOARDS FOR FISCAL YEAR 2021; APPROPRIATING ADDITIONAL MONEYS TO THE DIVISION OF BUILDING SAFETY FOR FISCAL YEAR 2021; 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 168, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Regulatory Boards the following amounts to be expended according to the designated programs for operating expenditures from the State Regulatory Fund for the period July 1, 2020, through June 30, 2021, for the purpose of a move to the Chinden Campus:

FOR:

Board of Accountancy	\$105,100
Board of Professional Engineers and Land Surveyors	202,300
Outfitters and Guides Licensing Board	185,100
Real Estate Commission	<u>423,600</u>
TOTAL	\$916,100

SECTION 2. In addition to the appropriation made in Section 1, Chapter 179, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Medical Boards the following amounts to be expended according to the designated programs for operating expenditures from the State Regulatory Fund for the period July 1, 2020, through June 30, 2021, for the purpose of a move to the Chinden Campus:

FOR:

Board of Dentistry	\$105,100
Board of Medicine	685,200
Board of Pharmacy	511,300
Board of Veterinary Medicine	<u>77,800</u>
TOTAL	\$1,379,400

SECTION 3. In addition to the appropriation made in Section 1, Chapter 312, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Division of Building Safety \$3,540,100 from the State Regulatory Fund to be expended for operating expenditures for the period July 1, 2020, through June 30, 2021, for the purpose of a move to the Chinden Campus.

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 19, 2021

CHAPTER 106
(H.B. No. 306)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 2022; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING REQUIREMENTS REGARDING THE WATERCRAFT INSPECTION PROGRAM.

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

SECTION 1. There is hereby appropriated to the Department of Agriculture the following amounts to be expended according to the designated programs and expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General					
Fund	\$925,700	\$639,400			\$1,565,100
Administration and Accounting Services					
Fund	991,100	138,600	\$23,400		1,153,100
Facilities Maintenance					
Fund	<u>166,900</u>	<u>173,100</u>	<u>0</u>		<u>340,000</u>
TOTAL	\$2,083,700	\$951,100	\$23,400		\$3,058,200
II. ANIMAL INDUSTRIES:					
FROM:					
General					
Fund	\$1,848,900	\$249,200			\$2,098,100
Agricultural Inspection					
Fund	38,500	9,700			48,200
Agricultural Fees - Livestock Disease Control					
Fund	833,300	416,400	\$126,400		1,376,100
Agricultural Fees - Dairy Inspection					
Fund	1,702,800	495,600	35,100		2,233,500
Agricultural Fees - Egg Inspection					
Fund	173,400	59,000			232,400
Agricultural Fees - Commercial Fisheries					
Fund	5,700	4,200			9,900
Agricultural Fees - Poultry Inspection					
Fund	36,000	17,500			53,500
Seminars and Publications					
Fund		58,300			58,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant					
Fund	<u>362,100</u>	<u>117,300</u>	<u>0</u>	<u>\$38,200</u>	<u>517,600</u>
TOTAL	\$5,000,700	\$1,427,200	\$161,500	\$38,200	\$6,627,600
III. AGRICULTURAL RESOURCES:					
FROM:					
General					
Fund	\$130,100	\$127,200			\$257,300
Agricultural Fees - Pesticides					
Fund	2,259,600	917,100	\$52,700		3,229,400
Federal Grant					
Fund	<u>391,700</u>	<u>118,400</u>	<u>0</u>		<u>510,100</u>
TOTAL	\$2,781,400	\$1,162,700	\$52,700		\$3,996,800
IV. PLANT INDUSTRIES:					
FROM:					
General					
Fund	\$1,506,500	\$1,318,500		\$3,270,200	\$6,095,200
Agricultural Inspection					
Fund	1,315,400	303,800	\$15,700	111,100	1,746,000
Invasive Species					
Fund	585,200	768,500	231,200	200,000	1,784,900
Agricultural Fees - Commercial Feed and Fertilizer					
Fund	1,262,400	444,200	337,700	50,000	2,094,300
Agricultural Fees - Honey Advertising					
Fund	400	16,300			16,700
Quality Assurance Laboratory Services					
Fund	369,400	137,700			507,100
Federal Grant					
Fund	<u>1,234,000</u>	<u>1,098,300</u>	<u>0</u>	<u>956,700</u>	<u>3,289,000</u>
TOTAL	\$6,273,300	\$4,087,300	\$584,600	\$4,588,000	\$15,533,200
V. AGRICULTURAL INSPECTIONS:					
FROM:					
General					
Fund	\$754,800	\$149,000			\$903,800
Weights and Measures Inspection					
Fund	469,200	214,500	\$25,200		708,900
Agricultural Fees - Organic Food Products					
Fund	559,400	111,400	2,400		673,200
Agricultural Fees - Fresh Fruit and Vegetable Inspection					
Fund	<u>7,659,900</u>	<u>2,829,800</u>	<u>38,500</u>		<u>10,528,200</u>
TOTAL	\$9,443,300	\$3,304,700	\$66,100		\$12,814,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VI. MARKET DEVELOPMENT:					
FROM:					
General					
Fund	\$458,200	\$364,600			\$822,800
Agricultural Inspection					
Fund	80,700	74,100	\$4,200		159,000
Seminars and Publications					
Fund		245,600			245,600
Rural Economic Development Integrated Freight Transportation					
Fund	9,600	20,000		\$140,000	169,600
Revolving Loans					
Fund	12,300	15,300			27,600
Federal Grant					
Fund	<u>152,100</u>	<u>628,100</u>	<u>0</u>	<u>1,267,500</u>	<u>2,047,700</u>
TOTAL	\$712,900	\$1,347,700	\$4,200	\$1,407,500	\$3,472,300
VII. ANIMAL DAMAGE CONTROL:					
FROM:					
General					
Fund		\$4,000		\$156,700	\$160,700
Animal Damage Control					
Fund				100,000	100,000
Agricultural Fees - Sheep and Goat Health					
Fund		<u>7,200</u>		<u>160,200</u>	<u>167,400</u>
TOTAL		\$11,200		\$416,900	\$428,100
VIII. SHEEP AND GOAT HEALTH BOARD:					
FROM:					
General					
Fund	\$72,200				\$72,200
Agricultural Fees - Sheep and Goat Health					
Fund	<u>72,500</u>	<u>\$38,300</u>			<u>110,800</u>
TOTAL	\$144,700	\$38,300			\$183,000
GRAND TOTAL	\$26,440,000	\$12,330,200	\$892,500	\$6,450,600	\$46,113,300

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Agriculture is authorized no more than two hundred sixteen (216.00) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. WATERCRAFT INSPECTION PROGRAM. The Department of Agriculture shall maximize the use of the appropriation provided for the Watercraft Inspection Program to minimize the chances of spreading zebra mussels, quagga mussels, and other aquatic invasive species into Idaho waters. The department is encouraged to use roving inspection stations when appropriate and for expanded hours of coverage during holidays when boat transport traffic is likely to increase. It is also encouraged to use extra staffing on busy holiday weekends. The department shall gather data regarding the number of watercraft that are bypassing the stations and nighttime transport of watercraft across Idaho's borders. The department shall also seek to secure federal funding to further enhance invasive species detection and prevention efforts. The department shall report back to the Joint Finance-Appropriations Committee, the Senate Agricultural Affairs Committee, and the House Agricultural Affairs Committee during the 2022 legislative session regarding the results of the data gathering, attainment of federal funds, and an operational review of the boat stations.

Approved March 19, 2021

CHAPTER 107
(S.B. No. 1005)

AN ACT

RELATING TO WATER DISTRICTS; AMENDING SECTION 42-612, IDAHO CODE, TO AUTHORIZE CERTAIN WATER DISTRICTS TO CHARGE FEES TO WATER DELIVERY ORGANIZATIONS AND WATER USERS INSTEAD OF ASSESSMENTS UNDER SPECIFIED CIRCUMSTANCES.

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

SECTION 1. That Section 42-612, Idaho Code, be, and the same is hereby amended to read as follows:

42-612. PROPOSED WATER DISTRICT BUDGET FOR SUCCEEDING YEAR -- ADOPTION AND CONTENTS OF BUDGET -- DEBT OF WATER USER. (1) Each watermaster shall, at least fourteen (14) days prior to the annual meeting of the water users of the water district, prepare a proposed budget for the succeeding year, together with a distribution of the pro rata amounts of the budget assessed to the respective water users or water delivery organizations using the actual volume of water delivered for the past season or seasons. The proposed budget and distribution of pro rata assessments shall be presented to the water users for consideration and approval at the next annual meeting.

(2) At any annual meeting, the water users must adopt a budget covering the estimated expenses of delivering the water of the district for the ensuing year and by resolution determine that the budget shall be collected. The compensation of the watermaster and the watermaster's assistants and any other expenses of delivering the water of the district to the users thereof, including the costs of the advisory committee in implementing resolutions adopted by the water users of the district for activities other than the payment of the salary and operating expenses of the watermaster and assistants, shall be paid in the manner hereinafter, in this section, provided.

(3) To the extent possible, funding for advisory committee expenses associated with implementing resolutions adopted by the water users for other than the payment of the salary and operating expenses of the watermaster and assistants shall come from funds available pursuant to section 42-613A, Idaho Code. If funds available pursuant to section 42-613A, Idaho Code, are not sufficient to cover expenses incurred in implementing resolutions adopted by the water users, then such expenses shall come from assessments.

(4) The budget shall show the aggregate amount to be collected from all the water users in the district and the amount to be paid by each water delivery organization or other water user. For the purpose of computing the respective amounts to be paid by each water user, the actual volume of water delivered to each water delivery organization or other water user during the past season or seasons, not exceeding five (5) seasons, shall be used as a basis. If a right has not previously been assessed or if past season delivery records are not available, the watermaster may, by resolution of the water users, estimate the volume of water delivered or reasonably used when water was available under the priority of the right during the past season or seasons. Notwithstanding other provisions of this section, if a water delivery organization or water user diverts water pursuant to a valid water right from a natural waterway that is regulated and assessed by one water district, and that water is then conveyed through and rediverted from a different natural waterway pursuant to section 42-105(1), Idaho Code, that is regulated by a second water district, the second water district may, by resolution of the water users, charge a fee instead of an assessment for the water that is rediverted sufficient to pay the costs and expenses for watermaster services for data collection, water measurement, conveyance of water, and record keeping directly attributable to the conveyance of the water that is rediverted. A fee charged pursuant to this subsection is not an assessment. A water delivery organization or a water user that is charged a fee is not eligible to vote at an annual water district meeting as set forth in section 42-605, Idaho Code, unless the water delivery organization or water user holds other water rights that are assessed by the water district and voting is based upon those assessed water rights.

(5) Upon the adoption of the budget, the amount payable by each water delivery organization or other water user, as shown by the budget, shall become the debt of each respectively and shall become due and payable as hereinafter provided. Other provisions of chapter 6, title 42, Idaho Code, notwithstanding, water users may at the annual meeting by resolution provide for an annual minimum charge not to exceed two hundred fifty dollars (\$250) per water user for watermaster services. The minimum charge is applicable whenever the prorated charge against any water delivery organization or other water user is less than the minimum charge.

(6) Other provisions of chapter 6, title 42, Idaho Code, notwithstanding, water users at the annual meeting may provide, by resolution, that the respective amounts owed by each water user as shown in the adopted budget shall constitute a final determination of the amount due for that year without the need to carry forward any water user debits or credits to the following year.

Approved March 19, 2021

CHAPTER 108
(S.B. No. 1015)

AN ACT

RELATING TO DOMESTIC WATER; REPEALING SECTION 37-2102, IDAHO CODE, RELATING TO DOMESTIC WATER TO BE PROTECTED.

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

SECTION 1. That Section 37-2102, Idaho Code, be, and the same is hereby repealed.

Approved March 19, 2021

CHAPTER 109
(S.B. No. 1020)

AN ACT

RELATING TO LIABILITY OF LANDOWNERS; AMENDING SECTION 36-1604, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE LIMITATION OF LIABILITY OF LANDOWNERS TOWARD PERSONS ENTERING LAND FOR RECREATIONAL PURPOSES.

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

SECTION 1. That Section 36-1604, Idaho Code, be, and the same is hereby amended to read as follows:

36-1604. LIMITATION OF LIABILITY OF LANDOWNER. (a) Statement of Purpose. The purpose of this section is to encourage owners of land to make land, airstrips and water areas available to the public without charge for recreational purposes by limiting ~~their~~ the owner's liability toward persons entering ~~thereon~~ the owner's land for such recreational purposes.

(b) Definitions. As used in this section:

(1) "Airstrips" means either improved or unimproved landing areas used by pilots to land, park, take off, unload, load and taxi aircraft. Airstrips shall not include landing areas that are or may become eligible to receive federal funding pursuant to the federal airport and airway improvement act of 1982 and subsequent amendments thereto.

(2) "Governmental entity" shall have the same meaning as provided in section 6-902, Idaho Code.

(3) "Land" means private or public land, roads, airstrips, trails, parks, campgrounds, water, reservoirs, watercourses, hydroelectric dams, irrigation dams, groundwater recharge sites, canals, laterals, ditches, drains, water control structures, headgates, private or public ways and buildings, structures, and machinery or equipment when attached to or used on the realty land.

(4) "Owner" means the possessor of a fee interest, right-of-way, or easement, a tenant, lessee, licensee, occupant, operator, permit holder, or person in control of, or with a right or duty to maintain, the premises land.

(5) "Recreational purposes" ~~includes,~~ means the pursuit of personal enjoyment or pleasure on land when done without charge by the owner of the land, including but is not limited to, any of the following activities or any combination thereof: hunting, fishing, shooting, trapping, swimming, boating, rafting, tubing, camping, picnicking, hiking, pleasure driving, the flying of aircraft, bicycling, running, playing on playground equipment, skateboarding, athletic competition, nature study, waterskiing, animal riding, motorcycling, snowmobiling, operating recreational vehicles and off-highway vehicles, winter sports, and viewing or enjoying historical, archeological, scenic, geological or scientific sites, when done without charge of the owner and traveling across or being upon the land incidental to or ancillary to any of the recreational purposes described in this subsection.

(c) Owner Exempt from Warning. An owner of land owes no duty of care to keep the premises land safe for entry by others for recreational purposes, or to give any warning of a dangerous condition, use, structure, or activity on such premises land to persons entering for such purposes. Neither the installation of a sign or other form of warning of a dangerous condition, use, structure, or activity, nor any modification made for the purpose of improving the safety of others, nor the failure to maintain or keep in place any sign, other form of warning, or modification made to improve safety, shall create liability on the part of an owner of land where there is no other basis for such liability.

(d) Owner Assumes No Liability. An owner of land or equipment who either directly or indirectly invites or permits without charge any person to use such property for recreational purposes does not thereby:

(1) Extend any assurance that the ~~premises are~~ land is safe for any purpose.

(2) Confer upon such person the legal status of an invitee or licensee to whom a duty of care is owed.

(3) Assume responsibility for or incur liability for any injury to person or property caused by an act of or omission of such persons.

(e) Provisions Apply to Leased Public Land. Unless otherwise agreed in writing, the provisions of this section shall be deemed applicable to the duties and liability of an owner of land who grants public access for recreational purposes pursuant to a lease or other agreement with a governmental entity as long as the ~~landowner~~ owner of the land does not directly charge individual members of the public for such access, regardless of whether the governmental entity provides ~~landowners~~ the owner with remuneration.

(f) Provisions Apply to Land Subject to a Conservation Easement. Unless otherwise agreed in writing, the provisions of this section shall be deemed applicable to the duties and liability of an owner of land subject to a conservation easement to any governmental entity or nonprofit organization.

(g) Provisions Apply to Funding, Maintenance or Improvements. The provisions of this section shall be deemed applicable to the duties and liability of any governmental entity, nongovernmental organization or person that provides funds, reasonably performs maintenance, reasonably makes or supports improvements, holds conservation easements or takes similar reasonable action regarding land made available to the public without charge for recreational purposes.

(h) Owner Not Required to Keep Land Safe. Nothing in this section shall be construed to:

(1) Create a duty of care or ground of liability for injury to persons or property.

(2) Relieve any person using the land of another for recreational purposes from any obligation which he may have in the absence of this section to exercise care in his use of such land and in his activities thereon, or from legal consequences or failure to employ such care.

(3) Apply to any person or persons who for compensation permit the land to be used for recreational purposes.

(i) User Liable for Damages. Any person using the land of another for recreational purposes, with or without permission, shall be liable for any damage to land, property, livestock or crops which he that the person may cause while on said property land, in addition to all remedies provided in section 6-202, Idaho Code, in the event the person has committed a civil trespass.

Approved March 19, 2021

CHAPTER 110
(S.B. No. 1055)

AN ACT

RELATING TO SPORT SHOOTING RANGES; AMENDING SECTION 55-2604, IDAHO CODE, TO REVISE DEFINITIONS AND TO DEFINE TERMS; AMENDING SECTION 55-2605, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 55-2604, Idaho Code, be, and the same is hereby amended to read as follows:

55-2604. DEFINITIONS. As used in this act:

- (1) "Local unit of government" means a county, city or a town.
- (2) "Person" means an individual, proprietorship, partnership, corporation, club, or other legal entity.
- (3) "Sport shooting range" or "range" means an area designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, archery, or any other similar sport shooting. In the case of shotgun sports utilizing portable target throwers and shooting positions, the range area shall be deemed to encompass the entire parcel of real property whereupon shooting activities may be safely conducted, provided that shotfall occurs entirely upon the property of the person owning or controlling the range.
- (4) "Outdoor sport shooting range" means any range described in subsection (3) of this section, including any range operated exclusively for the use of law enforcement, with the exception of:
 - (a) Any totally enclosed facility that is designed to offer a totally controlled shooting environment that includes impenetrable walls, floors, and ceilings, adequate ventilation, lighting systems and acoustical treatment for sound attenuation; or
 - (b) Any range described in chapter 91, title 67, Idaho Code.
- (5) "Expanding" means the enlargement of scale, scope, or membership as it relates to shooting activities on a range.
- (6) "Increasing" means to become more numerous as it relates to shooting opportunities, locations, or membership on a range.
- (7) "Substantial change in use" means that the current primary use of the range no longer represents the activity previously engaged in at the range or the acquisition of additional real property for the purpose of range expansion. The following actions shall not constitute a substantial change in use:
 - (a) Expanding or increasing membership or opportunities for public, private, or law enforcement participation related to the primary activity as a shooting range;
 - (b) Making repairs or improvements to enhance safety or noise abatement;

- (c) Increasing events and activities related to the primary activity as a shooting range;
- (d) Acquiring additional lands to be used for buffer zones or noise mitigation efforts;
- (e) Establishing or expanding range use hours between 7:00 a.m. and 10:00 p.m.;
- (f) Establishing or expanding law enforcement agency range use hours between 10:00 p.m. and 7:00 a.m.; or
- (g) Any location, relocation, or increase in the number of portable shotgun shooting positions as described in subsection (3) of this section.

SECTION 2. That Section 55-2605, Idaho Code, be, and the same is hereby amended to read as follows:

55-2605. PREEMPTION OF LOCAL AUTHORITY -- NOISE STANDARDS -- ZONING. Local governmental law is herein preempted and local governments shall not have authority to establish or enforce noise standards for outdoor sport shooting ranges, not otherwise exempted from local regulation by this chapter, more restrictive than any standards established for state outdoor shooting ranges in chapter 91, title 67, Idaho Code, nor shall a local government have the authority to make any action described in section 55-2604(57), Idaho Code, a violation of a local zoning ordinance nor shall the undertaking of any such action cause an outdoor sport shooting range to be in violation of any zoning ordinance.

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

Approved March 19, 2021

CHAPTER 111
(S.B. No. 1072)

AN ACT
RELATING TO IRRIGATION DISTRICTS; AMENDING SECTION 43-209, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE FILLING OF VACANCIES.

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

SECTION 1. That Section 43-209, Idaho Code, be, and the same is hereby amended to read as follows:

43-209. VACANCIES. (1) Each director shall meet the qualification requirements of section 43-201(3), Idaho Code, during his term of office. Each director shall notify the other directors if circumstances change so that he will no longer meet those requirements during his term of office, or if any of the events specified in section 59-901, Idaho Code, are occurring or have occurred. The remaining directors shall have the authority to determine whether a vacancy in the office of director has occurred upon the director no longer qualifying to serve as a director as provided in section 43-201(3), Idaho Code, or upon the occurrence of any of the events specified in section 59-901, Idaho Code.

(2) If the remaining directors determine that a vacancy in the office of director has occurred as provided in subsection (1) of this section, the remaining directors shall, by resolution, declare that the vacancy shall be filled as herein provided. The remaining directors may allow the disqualified director to remain in office temporarily until his successor is appointed or elected if they determine that they will be unable to conduct the district's affairs without a director serving in that office. The disqualified director shall not remain in office after the district's next regular election.

(3) After declaring a vacancy, the remaining directors shall fill such vacancy by appointing thereto a qualified elector ~~residing within the division in which the vacancy occurred~~ under the provisions of section 43-201, Idaho Code. A director appointed to fill a vacancy shall take and subscribe the official oath and execute a bond if one is required in the case of an elected director under section 43-202, Idaho Code, and shall hold his office until the next regular election of said district, at which election a director shall be elected for the remainder of the unexpired term.

(4) Any person filling a vacancy as herein provided shall possess all the rights and powers and is subject to all the liabilities, duties and obligations of the office filled.

Approved March 19, 2021

CHAPTER 112
(S.B. No. 1073)

AN ACT

RELATING TO IRRIGATION; AMENDING SECTION 42-1208, IDAHO CODE, TO PROVIDE THAT CERTAIN REAL PROPERTY IS NOT SUBJECT TO ADVERSE POSSESSION.

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

SECTION 1. That Section 42-1208, Idaho Code, be, and the same is hereby amended to read as follows:

42-1208. EASEMENTS, OR RIGHTS-OF-WAY, AND OTHER REAL PROPERTY NOT SUBJECT TO ADVERSE POSSESSION. ~~The eEasements, or rights-of-way of, or real property owned by irrigation districts, Carey act operating companies, nonprofit irrigation entities, lateral ditch associations, and drainage districts are not subject to adverse possession, and no. No person shall prevent free access of authorized personnel on such easements, or rights-of-way, or other real property, or construct any obstruction on such easements, or rights-of-way, or other real property in an effort to adversely possess said easement, or right-of-way, or other real property.~~

Approved March 19, 2021

CHAPTER 113
(S.B. No. 1138)

AN ACT

RELATING TO THE APPROPRIATION TO THE MILITARY DIVISION FOR FISCAL YEAR 2022;
APPROPRIATING MONEYS TO THE MILITARY DIVISION FOR FISCAL YEAR 2022;
LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND
PROVIDING A CONTINUOUS APPROPRIATION.

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

SECTION 1. There is hereby appropriated to the Military Division the following amounts to be expended according to the designated programs and expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MILITARY MANAGEMENT:					
FROM:					
General					
Fund	\$2,518,200	\$312,200		\$300,000	\$3,130,400
Indirect Cost Recovery					
Fund	414,600	46,400			461,000
Miscellaneous Revenue					
Fund		765,900			765,900
Administration and Accounting Services					
Fund	<u>2,641,300</u>	<u>958,700</u>	<u>\$489,700</u>	<u>0</u>	<u>4,089,700</u>
TOTAL	\$5,574,100	\$2,083,200	\$489,700	\$300,000	\$8,447,000
II. FEDERAL/STATE AGREEMENTS:					
FROM:					
General					
Fund	\$1,018,600	\$1,047,300			\$2,065,900
Miscellaneous Revenue					
Fund	1,691,500	435,200			2,126,700
Federal Grant					
Fund	<u>28,237,600</u>	<u>20,435,100</u>			<u>48,672,700</u>
TOTAL	\$30,947,700	\$21,917,600			\$52,865,300
III. OFFICE OF EMERGENCY MANAGEMENT:					
FROM:					
General					
Fund	\$1,953,100	\$163,200			\$2,116,300

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant					
Fund	<u>2,854,300</u>	<u>3,865,300</u>		<u>\$11,225,600</u>	<u>17,945,200</u>
TOTAL	\$4,807,400	\$4,028,500		\$11,225,600	\$20,061,500
GRAND TOTAL	\$41,329,200	\$28,029,300	\$489,700	\$11,525,600	\$81,373,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Military Division is authorized no more than four hundred thirty-five and eight-tenths (435.80) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. CONTINUOUS APPROPRIATION. The Military Division is hereby granted continuous appropriation authority for the Idaho Office of Emergency Management's Miscellaneous Revenue Fund for the period July 1, 2021, through June 30, 2022, for the purpose of covering incurred costs arising out of hazardous substance incidents.

Approved March 19, 2021

CHAPTER 114
(S.B. No. 1140)

AN ACT

RELATING TO THE APPROPRIATION TO THE DIVISION OF VETERANS SERVICES FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE DIVISION OF VETERANS SERVICES FOR FISCAL YEAR 2022; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING REAPPROPRIATION AUTHORITY FOR A SECOND VETERANS CEMETERY; AND PROVIDING REAPPROPRIATION AUTHORITY FOR A FOURTH VETERANS HOME.

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 according to the designated expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$1,049,700	\$136,000		\$42,400	\$1,228,100
Veterans Recognition Income					
Fund				195,000	195,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Miscellaneous Revenue					
Fund	15,108,400	4,635,200			19,743,600
Veterans Home Endowment Income					
Fund	200,400	637,100	\$271,600	1,500	1,110,600
Federal COVID-19 Relief					
Fund	1,750,000	1,981,900			3,731,900
Federal Grant					
Fund	<u>10,904,400</u>	<u>12,405,500</u>	<u>856,600</u>	<u>0</u>	<u>24,166,500</u>
TOTAL	\$29,012,900	\$19,795,700	\$1,128,200	\$238,900	\$50,175,700

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Division of Veterans Services is authorized no more than three hundred sixty-seven and two-tenths (367.20) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. REAPPROPRIATION AUTHORITY FOR A SECOND VETERANS CEMETERY. There is hereby reappropriated to the Division of Veterans Services any unexpended and unencumbered balances appropriated or reappropriated to the Division of Veterans Services from the Federal Grant Fund for a second veterans cemetery for fiscal year 2021, in an amount not to exceed \$3,132,400, to be used for nonrecurring expenditures related to the addition of a second veterans cemetery in southeastern Idaho for the period July 1, 2021, through June 30, 2022. The Office of the State Controller shall confirm the reappropriation amount, by fund, expense class, and program, with the Legislative Services Office prior to processing the reappropriation authorized herein.

SECTION 4. REAPPROPRIATION AUTHORITY FOR A FOURTH VETERANS HOME. There is hereby reappropriated to the Division of Veterans Services any unexpended and unencumbered balances appropriated or reappropriated to the Division of Veterans Services from the Federal Grant Fund and the Veterans Recognition Income Fund for the construction of a fourth veterans home for fiscal year 2021, in an amount not to exceed \$30,761,800 from the Federal Grant Fund and \$12,157,100 from the Veterans Recognition Income Fund, to be used for nonrecurring expenditures related to the construction of a fourth veterans home for the period July 1, 2021, through June 30, 2022. The Office of the State Controller shall confirm the reappropriation amount, by fund, expense class, and program, with the Legislative Services Office prior to processing the reappropriation authorized herein.

Approved March 19, 2021

CHAPTER 115
(S.B. No. 1141)

AN ACT

RELATING TO THE APPROPRIATION TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 2022; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND AMENDING SECTION 61-215, IDAHO CODE, TO INCREASE THE SALARIES OF THE PUBLIC UTILITIES COMMISSIONERS.

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 according to the designated expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Indirect Cost Recovery				
Fund		\$219,300		\$219,300
Public Utilities Commission				
Fund	\$4,411,200	1,719,300	\$18,000	6,148,500
Federal Grant				
Fund	<u>272,600</u>	<u>69,200</u>	<u>0</u>	<u>341,800</u>
TOTAL	\$4,683,800	\$2,007,800	\$18,000	\$6,709,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Public Utilities Commission is authorized no more than forty-nine (49.00) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. That Section 61-215, Idaho Code, be, and the same is hereby amended to read as follows:

61-215. SALARIES OF PUBLIC UTILITIES COMMISSIONERS. Each member of the public utilities commission shall devote full time to the performance of his/her duties. Commencing on July 1, 2020~~1~~, the annual salary of members of the public utilities commission shall be one hundred ~~twelve fourteen~~ thousand ~~two hundred seventy-five~~ five hundred twenty dollars (~~\$112,275~~114,520) and shall be paid from sources set by the legislature.

Approved March 19, 2021

CHAPTER 116
(S.B. No. 1144)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF LABOR FOR FISCAL YEAR 2021; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF LABOR FOR FISCAL YEAR 2021; 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 237, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Department of Labor for the Employment Services Program \$1,000,000 from the General Fund to be expended for operating expenditures for the period July 1, 2020, through June 30, 2021.

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

Approved March 19, 2021

CHAPTER 117
(S.B. No. 1145)

AN ACT

RELATING TO THE APPROPRIATION TO THE SOIL AND WATER CONSERVATION COMMISSION FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE SOIL AND WATER CONSERVATION COMMISSION FOR FISCAL YEAR 2022; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING REQUIREMENTS FOR TRUSTEE AND BENEFIT PAYMENTS DISTRIBUTION.

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

SECTION 1. There is hereby appropriated to the Soil and Water Conservation Commission the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$1,302,500	\$236,600	\$1,428,100	\$2,967,200
Administration and Accounting Services				
Fund		30,000		30,000
Resource Conservation and Rangeland Development				
Fund	179,100	163,500		342,600
Clean Water Revolving Loan (SCC)				
Fund	0	30,000	0	30,000
TOTAL	\$1,481,600	\$460,100	\$1,428,100	\$3,369,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Soil and Water Conservation Commission is authorized no more than seventeen and seventy-five hundredths (17.75) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. TRUSTEE AND BENEFIT PAYMENTS DISTRIBUTION. Of the amount appropriated in Section 1 of this act for trustee and benefit payments, \$300,000 shall be distributed equally between the fifty (50) soil and water conservation districts in addition to the amounts authorized under Section 22-2727, Idaho Code.

Approved March 19, 2021

CHAPTER 118
(S.B. No. 1146)

AN ACT

RELATING TO THE APPROPRIATION TO THE OFFICE OF SPECIES CONSERVATION FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE OFFICE OF SPECIES CONSERVATION FOR FISCAL YEAR 2022; 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 Species Conservation the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$753,600	\$875,400		\$1,629,000
Miscellaneous Revenue				
Fund		15,000		15,000
Federal Grant				
Fund	<u>673,600</u>	<u>203,100</u>	<u>\$12,140,000</u>	<u>13,016,700</u>
TOTAL	\$1,427,200	\$1,093,500	\$12,140,000	\$14,660,700

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Office of Species Conservation is authorized no more than fifteen (15.00) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 19, 2021

CHAPTER 119
(S.B. No. 1147)

AN ACT

RELATING TO THE APPROPRIATION TO THE AGRICULTURAL RESEARCH AND COOPERATIVE EXTENSION SERVICE FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE AGRICULTURAL RESEARCH AND COOPERATIVE EXTENSION SERVICE FOR FISCAL YEAR 2022; AND EXEMPTING THE APPROPRIATION FROM OBJECT TRANSFER LIMITATIONS.

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

SECTION 1. There is hereby appropriated to the Board of Regents of the University of Idaho for the Agricultural Research and Cooperative Extension Service the following amounts to be expended according to the designated expense classes from the General Fund for the period July 1, 2021, through June 30, 2022:

FOR:

Personnel Costs	\$28,209,200
Operating Expenditures	3,835,900
Capital Outlay	<u>650,000</u>
TOTAL	\$32,695,100

SECTION 2. EXEMPTIONS FROM OBJECT TRANSFER LIMITATIONS. The Agricultural Research and Cooperative Extension Service is hereby exempted from the provisions of Section 67-3511(1) and (3), Idaho Code, allowing unlimited transfers between object codes for all moneys appropriated to it for the period July 1, 2021, through June 30, 2022. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

Approved March 19, 2021

CHAPTER 120
(S.B. No. 1148)

AN ACT

RELATING TO THE APPROPRIATION TO THE STEM ACTION CENTER FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE STEM ACTION CENTER FOR FISCAL YEAR 2022; 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 STEM Action Center the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General			
Fund	\$597,900	\$2,458,200	\$3,056,100
STEM Education			
Fund	<u>0</u>	<u>2,929,900</u>	<u>2,929,900</u>
TOTAL	\$597,900	\$5,388,100	\$5,986,000

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the STEM Action Center is authorized no more than six (6.00) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 19, 2021

CHAPTER 121
(S.B. No. 1151)

AN ACT

RELATING TO THE APPROPRIATION TO THE COMMISSION ON AGING FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE COMMISSION ON AGING FOR FISCAL YEAR 2022; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING REAPPROPRIATION AUTHORITY.

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

SECTION 1. There is hereby appropriated to the Commission on Aging the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$552,000	\$80,600	\$3,897,600	\$4,530,200
Federal COVID-19 Relief				
Fund		349,700	375,000	724,700
Federal Grant				
Fund	<u>744,000</u>	<u>506,100</u>	<u>8,126,800</u>	<u>9,376,900</u>
TOTAL	\$1,296,000	\$936,400	\$12,399,400	\$14,631,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Commission on Aging is authorized no more than thirteen (13.00) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Commission on Aging any unexpended and unencumbered balances appropriated to the Commission on Aging from the Federal COVID-19 Relief Fund for the purpose of home-delivered meals for fiscal year 2021, in an amount not to exceed \$862,400, to be used for nonrecurring expenditures related to home-delivered meals for the period July 1, 2021, through June 30, 2022. The Office of the State Controller shall confirm the reappropriation amount, by fund, expense class, and program, with the Legislative Services Office prior to processing the reappropriation authorized herein.

Approved March 19, 2021

CHAPTER 122
(S.B. No. 1152)

AN ACT

RELATING TO THE APPROPRIATION TO THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 2022; 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, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. EXTENDED EMPLOYMENT SERVICES:					
FROM:					
General					
Fund	\$301,300	\$91,600		\$3,202,900	\$3,595,800
II. VOCATIONAL REHABILITATION:					
FROM:					
General					
Fund	\$2,069,700	\$306,600	\$55,500	\$1,784,500	\$4,216,300
Rehabilitation Revenue and Refunds					
Fund	62,400	41,500		1,040,000	1,143,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Miscellaneous Revenue					
Fund	74,700	46,200		850,000	970,900
Federal Grant					
Fund	<u>8,473,400</u>	<u>1,688,300</u>	<u>205,000</u>	<u>7,729,700</u>	<u>18,096,400</u>
TOTAL	\$10,680,200	\$2,082,600	\$260,500	\$11,404,200	\$24,427,500
III. COUNCIL FOR THE DEAF AND HARD OF HEARING:					
FROM:					
General					
Fund	\$318,900	\$71,200			\$390,100
Miscellaneous Revenue					
Fund	<u>0</u>	<u>3,000</u>			<u>3,000</u>
TOTAL	\$318,900	\$74,200			\$393,100
GRAND TOTAL	\$11,300,400	\$2,248,400	\$260,500	\$14,607,100	\$28,416,400

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 (150.00) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 19, 2021

CHAPTER 123
(S.B. No. 1153)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF INSURANCE FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE DEPARTMENT OF INSURANCE FOR FISCAL YEAR 2022; 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, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. INSURANCE REGULATION:				
FROM:				
Insurance Administrative				
Fund	\$4,825,000	\$3,174,600	\$106,000	\$8,105,600
Federal Grant				
Fund	<u>296,300</u>	<u>398,100</u>	<u>0</u>	<u>694,400</u>
TOTAL	\$5,121,300	\$3,572,700	\$106,000	\$8,800,000
II. STATE FIRE MARSHAL:				
FROM:				
Arson, Fire and Fraud Prevention				
Fund	\$853,600	\$342,200	\$71,900	\$1,267,700
GRAND TOTAL	\$5,974,900	\$3,914,900	\$177,900	\$10,067,700

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Insurance is authorized no more than seventy-one and five-tenths (71.50) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 19, 2021

CHAPTER 124
(S.B. No. 1155)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 2022; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; APPROPRIATING AND TRANSFERRING MONEYS FROM THE PERMANENT BUILDING FUND TO THE ADMINISTRATION AND ACCOUNTING SERVICES FUND; AND PROVIDING REQUIREMENTS FOR THE STATE EMPLOYEE INSURANCE AND BENEFITS PLAN STRUCTURE.

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

SECTION 1. There is hereby appropriated to the Department of Administration the following amounts to be expended according to the designated programs and expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. MANAGEMENT SERVICES:			
FROM:			
General			
Fund	\$181,000	\$68,100	\$249,100
Permanent Building			
Fund	150,500	18,100	168,600
Administration and Accounting Services			
Fund	547,600	91,600	639,200
Federal Surplus Property Revolving			
Fund	20,400		20,400
Employee Group Insurance			
Fund	75,800	100	75,900
Retained Risk			
Fund	55,200		55,200
Industrial Special Indemnity			
Fund	<u>24,800</u>	<u>0</u>	<u>24,800</u>
TOTAL	\$1,055,300	\$177,900	\$1,233,200
II. PUBLIC WORKS:			
FROM:			
General			
Fund		\$1,551,100	\$1,551,100
Permanent Building			
Fund	\$2,316,300	706,500	3,022,800
Administration and Accounting Services			
Fund	<u>2,763,000</u>	<u>9,766,000</u>	<u>12,529,000</u>
TOTAL	\$5,079,300	\$12,023,600	\$17,102,900
III. PURCHASING:			
FROM:			
Administration and Accounting Services			
Fund	\$1,333,200	\$563,100	\$1,896,300
Federal Surplus Property Revolving			
Fund	<u>194,900</u>	<u>414,300</u>	<u>609,200</u>
TOTAL	\$1,528,100	\$977,400	\$2,505,500
IV. INSURANCE MANAGEMENT:			
FROM:			
Employee Group Insurance			
Fund	\$452,400	\$408,600	\$861,000
Retained Risk			
Fund	712,300	194,700	907,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
Industrial Special Indemnity			
Fund	<u>204,700</u>	<u>101,200</u>	<u>305,900</u>
TOTAL	\$1,369,400	\$704,500	\$2,073,900
V. DOCUMENT SERVICES:			
FROM:			
General			
Fund	\$634,000		\$634,000
Administration and Accounting Services			
Fund	<u>375,700</u>	<u>\$588,200</u>	<u>963,900</u>
TOTAL	\$1,009,700	\$588,200	\$1,597,900
GRAND TOTAL	\$10,041,800	\$14,471,600	\$24,513,400

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Administration is authorized no more than one hundred twenty-four (124.00) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. CASH TRANSFER. There is hereby appropriated and the Office of the State Controller shall transfer \$1,737,500 from the Permanent Building Fund to the Administration and Accounting Services Fund on July 1, 2021, or as soon thereafter as practicable, for the Capitol Mall Facilities payment in the Division of Public Works due in fiscal year 2022.

SECTION 4. PLAN STRUCTURE. The Office of Group Insurance shall maintain the current health insurance plan structure and benefit package for state employees and the employer and employee cost-sharing split recommended by the Governor and the Legislature's Joint Change in Employee Compensation Committee for fiscal year 2022. Adherence with the plan structure shall not preclude the Office of Group Insurance from implementing positive plan changes as identified.

Approved March 19, 2021

CHAPTER 125
(S.B. No. 1156)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF ADMINISTRATION FOR THE BOND PAYMENTS PROGRAM FOR FISCAL YEAR 2022; AND APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE BOND PAYMENTS PROGRAM FOR FISCAL YEAR 2022.

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

SECTION 1. There is hereby appropriated to the Department of Administration for the Bond Payments Program the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:			
General			
Fund	\$2,075,000	\$1,855,000	\$3,930,000
Permanent Building			
Fund	7,969,200	6,790,800	14,760,000
Administration and Accounting Services			
Fund	<u>293,000</u>	<u>380,000</u>	<u>673,000</u>
TOTAL	\$10,337,200	\$9,025,800	\$19,363,000

Approved March 19, 2021

CHAPTER 126
(S.B. No. 1157)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF ADMINISTRATION FOR THE IDAHO STATE CAPITOL COMMISSION FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE IDAHO STATE CAPITOL COMMISSION FOR FISCAL YEAR 2022; APPROPRIATING AND TRANSFERRING MONEYS FROM THE CAPITOL MAINTENANCE RESERVE FUND TO THE CAPITOL COMMISSION OPERATING FUND; AND PROVIDING REAPPROPRIATION AUTHORITY.

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

SECTION 1. There is hereby appropriated to the Department of Administration for the Idaho State Capitol Commission the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:			
Capitol Commission Operating			
Fund	\$142,000		\$142,000
Capitol Maintenance Reserve			
Fund	<u>0</u>	<u>\$2,200,000</u>	<u>2,200,000</u>
TOTAL	\$142,000	\$2,200,000	\$2,342,000

SECTION 2. CASH TRANSFER. There is hereby appropriated to the Department of Administration for the Idaho State Capitol Commission and the Office of the State Controller shall transfer \$125,000 from the Capitol Maintenance Reserve Fund to the Capitol Commission Operating Fund on July 1, 2021, or as soon thereafter as practicable, for the period July 1, 2021, through June 30, 2022.

SECTION 3. REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Department of Administration for the Idaho State Capitol Commission any unexpended and unencumbered balances appropriated to the Department of Administration for the Idaho State Capitol Commission from the Capitol Commission Operating Fund and the Capitol Maintenance Reserve Fund for fiscal year 2021 to be used for nonrecurring expenditures for the period July 1, 2021, through June 30, 2022. The Office of the State Controller shall confirm the reappropriation amount, by fund, expense class, and program, with the Legislative Services Office prior to processing the reappropriation authorized herein.

Approved March 19, 2021

CHAPTER 127

(H.B. No. 22, As Amended in the Senate)

AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5208, IDAHO CODE, TO PROVIDE AN EXCEPTION TO A LIMITATION ON PUBLIC CHARTER SCHOOL FUNDING AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

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

(1) Per student support. Computation of support units for each public charter school shall be calculated as if it were a separate school according to the schedules in section 33-1002(4), Idaho Code, except that public charter schools with fewer than one hundred (100) secondary ADA shall use a divisor of twelve (12) and the minimum units shall not apply, ~~and no.~~ No public charter school shall receive an increase in support units that exceeds the support units it received in the prior year by more than thirty (30), provided that this limitation shall not apply for the 2020-2021 school year. Funding from the state educational support program shall be equal to the total distribution factor, plus the salary-based apportionment provided in chapter 10, title 33, Idaho Code. Provided however, any public charter school that is formed by the conversion of an existing traditional public school shall be assigned divisors, pursuant to section 33-1002, Idaho Code, that are no lower than the divisors of the school district in which the traditional public school is located, for each category of pupils listed.

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

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

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

- (a) The student resides within the school district in which the public charter school is physically located; or
- (b) The student resides within fifteen (15) miles of the public charter school, by road.

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The lesser of:

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

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

(9) Nothing in this chapter shall prevent a public charter school from applying for federal grant moneys or for career technical education funding of any source for any reason including, but not limited to, the instructional delivery method.

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

(b) All federal educational funds shall be administered and distributed to public charter schools, including public virtual schools, that have been designated as a local education agency (LEA), as provided in section 33-5203(8), Idaho Code.

(11) Nothing in this section prohibits separate face-to-face learning activities or services. In order to be eligible for career technical education essential components funding, virtual schools may be required to offer some face-to-face instruction in order to meet industry standards, licensing requirements, work-based learning requirements, or other requirements set forth by the board.

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

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 July 1, 2020.

Approved March 23, 2021

CHAPTER 128
(H.B. No. 167)

AN ACT

RELATING TO THE DEPARTMENT OF AGRICULTURE; AMENDING SECTION 22-101A, IDAHO CODE, TO REVISE PROVISIONS REGARDING RULEMAKING AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 22-101A, Idaho Code, be, and the same is hereby amended to read as follows:

22-101A. RULES OF THE DIRECTOR. (1) The legislature directs that any rule proposed by the director ~~which~~ that is broader in scope or more stringent than federal law or regulations, or proposes to regulate an activity not regulated by the federal government, is subject to the following additional requirements: the notice of proposed rulemaking and rulemaking record requirements under chapter 52, title 67, Idaho Code, must clearly specify that the proposed rule, or portions of the proposed rule, are broader in scope or more stringent than federal law or regulations, or regulate an activity not regulated by the federal government, and must delineate which portions of the proposed rule are broader in scope or more stringent than federal law or regulations, or regulate an activity not regulated by the federal government.

(2) (a) In proposing any rule or portions of any rule pursuant to chapter 49, title 22, Idaho Code, chapter 38, title 25, Idaho Code, or chapters 4 and 6, title 37, Idaho Code, the director shall utilize:

~~(a) The~~ (i) Utilize the best available peer reviewed science and supporting studies conducted in accordance with sound and objective scientific practices, if available; and

~~(b) Data~~ (ii) Utilize data collected by accepted methods, or best available methods, if the reliability of the method and the nature of the decision justify use of the data, provided that special consideration shall be given to site-specific, local, statewide, and regional data, including economic information;

(iii) Explain how the rules are consistent with applicable legislative findings, policy, and intent; and

(iv) Make available for public review and comment, before making a rulemaking decision, all scientific studies, including underlying methodology, intended to be relied upon by the director.

Where not prohibited by federal or state law, the requirements imposed on agricultural operations shall be economically feasible, based on data, studies, and other information that may be presented to the director by interested parties to the rulemaking process.

(b) For purposes of this subsection, "economically feasible" means that the requirements, when viewed singularly and cumulatively with other requirements, and the costs and burden of implementation of the same, on agricultural operations are reasonably achievable and attainable within the physical, operational, economic, and other constraints that affect such agricultural operations and their local communities. The highest cost or most modern management practices should not be the sole basis for rulemaking.

(3) Any proposed rule subject to this section ~~which~~ that proposes a standard necessary to protect human health and the environment shall also include in the rulemaking record requirements under chapter 52, title 67, Idaho Code, the following additional information:

- (a) Identification of each population or receptor addressed by an estimate of public health effects or environmental effects; and
- (b) Identification of the expected risk or central estimate of risk for the specific population or receptor; and
- (c) Identification of each appropriate upper bound or lower bound estimate of risk; and
- (d) Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty; and
- (e) Identification of studies known to the director that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data.

(4) The director shall also include a summary of the information required by subsection (3) of this section in the notice of rulemaking required by chapter 52, title 67, Idaho Code.

(5) Any rule promulgated or adopted by the director ~~which~~ that is broader in scope or more stringent than federal law or regulations, or ~~which~~ that regulates an activity not regulated by the federal government, submitted to the standing committee of the legislature pursuant to section 67-5291, Idaho Code, shall include a notice by the director identifying the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or ~~which~~ that regulate an activity not regulated by the federal government.

(6) Nothing provided herein is intended to alter the scope or effect of any other provision of state law ~~which~~ that limits or prohibits agency action or rulemaking that is broader in scope or more stringent than federal law or regulations.

(7) The provisions of this section place conditions on the director's rulemaking authority, which authority is authorized pursuant to provisions other than those set forth in chapter 1, title 22, Idaho Code. Nothing provided in this section is intended to grant the director additional rulemaking authority.

(8) The requirements of this section shall apply to the director's promulgation of new rules as well as the amendment, extension, or renewal of rules in effect on the effective date of this act.

Approved March 23, 2021

CHAPTER 129
(S.B. No. 1142)

AN ACT

RELATING TO THE APPROPRIATION TO THE OFFICE OF ENERGY AND MINERAL RESOURCES FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE OFFICE OF ENERGY AND MINERAL RESOURCES FOR FISCAL YEAR 2022; 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 and Mineral Resources the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
Indirect Cost Recovery					
Fund	\$153,000	\$39,200			\$192,200
Renewable Energy Resources					
Fund	268,300	42,100			310,400
Miscellaneous Revenue					
Fund	10,100	10,100			20,200
Petroleum Price Violation					
Fund	260,900	158,200	\$5,200	\$58,000	482,300
Federal Grant					
Fund	<u>371,600</u>	<u>159,000</u>	<u>0</u>	<u>0</u>	<u>530,600</u>
TOTAL	\$1,063,900	\$408,600	\$5,200	\$58,000	\$1,535,700

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Office of Energy and Mineral Resources is authorized no more than eight (8.00) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 23, 2021

CHAPTER 130
(S.B. No. 1154)

AN ACT

RELATING TO THE APPROPRIATION TO THE DIVISION OF CAREER TECHNICAL EDUCATION; APPROPRIATING MONEYS TO THE DIVISION OF CAREER TECHNICAL EDUCATION FOR FISCAL YEAR 2022; EXEMPTING THE APPROPRIATION FROM OBJECT TRANSFER LIMITATIONS FOR THE POSTSECONDARY PROGRAM; PROVIDING REAPPROPRIATION AUTHORITY; APPROPRIATING ADDITIONAL MONEYS TO THE DIVISION OF CAREER TECHNICAL EDUCATION FOR FISCAL YEAR 2021; 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 Career Technical Education the following amounts to be expended according to the designated programs and expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. STATE LEADERSHIP & TECHNICAL ASSISTANCE:				
FROM:				
General				
Fund	\$1,782,200	\$366,300		\$2,148,500
Federal Grant				
Fund	<u>0</u>	<u>20,000</u>		<u>20,000</u>
TOTAL	\$1,782,200	\$386,300		\$2,168,500
 II. GENERAL PROGRAMS:				
FROM:				
General				
Fund	\$852,900	\$584,900	\$14,715,700	\$16,153,500
Miscellaneous Revenue				
Fund		10,000	15,000	25,000
Federal COVID-19 Relief				
Fund		210,000		210,000
Federal Grant				
Fund	<u>721,700</u>	<u>329,800</u>	<u>6,243,100</u>	<u>7,294,600</u>
TOTAL	\$1,574,600	\$1,134,700	\$20,973,800	\$23,683,100
 III. POSTSECONDARY PROGRAMS:				
FROM:				
General				
Fund	\$43,209,800	\$3,534,000	\$2,500,000	\$49,243,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
IV. DEDICATED PROGRAMS:				
FROM:				
General				
Fund	\$166,500	\$234,900	\$2,222,900	\$2,624,300
Miscellaneous Revenue				
Fund	<u>0</u>	<u>275,000</u>	<u>0</u>	<u>275,000</u>
TOTAL	\$166,500	\$509,900	\$2,222,900	\$2,899,300
V. RELATED SERVICES:				
FROM:				
General				
Fund	\$445,000	\$175,300	\$2,217,100	\$2,837,400
Displaced Homemaker				
Fund			170,000	170,000
Hazardous Materials/Waste Enforcement				
Fund			67,800	67,800
Miscellaneous Revenue				
Fund		15,000		15,000
Federal Grant				
Fund	<u>148,100</u>	<u>122,800</u>	<u>2,839,800</u>	<u>3,110,700</u>
TOTAL	\$593,100	\$313,100	\$5,294,700	\$6,200,900
GRAND TOTAL	\$47,326,200	\$5,878,000	\$30,991,400	\$84,195,600

SECTION 2. EXEMPTIONS FROM OBJECT TRANSFER LIMITATIONS. Postsecondary Programs within the Division of Career Technical Education is hereby exempted from the provisions of Section 67-3511(1) and (3), Idaho Code, allowing unlimited transfers between object codes for all moneys appropriated to it for the period July 1, 2021, through June 30, 2022. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 3. REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Division of Career Technical Education any unexpended and unencumbered balances appropriated to the Division of Career Technical Education from the Federal Grant Fund for fiscal year 2021 to be used for nonrecurring expenditures for the period July 1, 2021, through June 30, 2022. The Office of the State Controller shall confirm the reappropriation amount, by fund, expense class, and program, with the Legislative Services Office prior to processing the reappropriation authorized herein.

SECTION 4. In addition to the appropriation made in Section 1, Chapter 187, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Division of Career Technical Education for Dedicated Programs \$125,000 from the General Fund to be expended for trustee and benefit payments for the period July 1, 2020, through June 30, 2021.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 4 of this act shall be in full force and effect on and after passage and approval.

Approved March 23, 2021

CHAPTER 131
(S.B. No. 1158)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF FINANCE FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE DEPARTMENT OF FINANCE FOR FISCAL YEAR 2022; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING FOR CONTINUOUS APPROPRIATION; AND PROVIDING REAPPROPRIATION AUTHORITY.

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 according to the designated expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
State Regulatory				
Fund	\$6,957,800	\$1,990,100	\$45,600	\$8,993,500
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	\$7,007,800	\$2,040,100	\$45,600	\$9,093,500

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Finance is authorized no more than sixty-six (66.00) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. CONTINUOUS APPROPRIATION AUTHORITY. The Department of Finance is hereby granted continuous appropriation authority for reimbursement of persons to whom the Idaho courts have made a final determination of 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 pursuant to Chapter 31, Title 26, Idaho Code.

SECTION 4. REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Department of Finance any unexpended and unencumbered balances appropriated or reappropriated to the Department of Finance from the State Regulatory Fund for construction and building expenses for fiscal year 2021, in an amount not to exceed \$1,800,000, to be used for nonrecurring expenditures related to building and construction costs for the period July 1, 2021, through June 30, 2022. The Office of the State Controller shall confirm the reappropriation amount, by fund, expense class, and program, with the Legislative Services Office prior to processing the reappropriation authorized herein.

Approved March 23, 2021

CHAPTER 132
(S.B. No. 1159)

AN ACT

RELATING TO THE APPROPRIATION TO THE STATE INDEPENDENT LIVING COUNCIL FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE STATE INDEPENDENT LIVING COUNCIL FOR FISCAL YEAR 2022; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the State Independent Living Council the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$124,200	\$104,000		\$228,200
State Independent Living Council (Ded)				
Fund	282,300	93,200		375,500
Federal Grant				
Fund	<u>24,400</u>	<u>9,400</u>	<u>\$25,100</u>	<u>58,900</u>
TOTAL	\$430,900	\$206,600	\$25,100	\$662,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the State Independent Living Council is authorized no more than four (4.00) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 23, 2021

CHAPTER 133
(S.B. No. 1162)

AN ACT

RELATING TO THE APPROPRIATION TO THE IDAHO COMMISSION FOR LIBRARIES FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE IDAHO COMMISSION FOR LIBRARIES FOR FISCAL YEAR 2022; 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 according to the designated expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$2,130,100	\$1,667,500		\$452,600	\$4,250,200
Miscellaneous Revenue					
Fund		55,000	\$5,000	10,000	70,000
Federal COVID-19 Relief					
Fund		307,000			307,000
Federal Grant					
Fund	<u>676,400</u>	<u>920,000</u>	<u>25,000</u>	<u>60,000</u>	<u>1,681,400</u>
TOTAL	\$2,806,500	\$2,949,500	\$30,000	\$522,600	\$6,308,600

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 five-tenths (37.50) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 23, 2021

CHAPTER 134
(H.B. No. 47)

AN ACT

RELATING TO VETERANS MEMORIALS; REPEALING SECTION 65-102, IDAHO CODE, RELATING TO APPROPRIATIONS FOR CERTAIN MEMORIALS; AMENDING SECTION 65-103, IDAHO CODE, TO REMOVE A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 65-105, IDAHO CODE, RELATING TO CERTAIN PERMANENT APPROPRIATIONS; AND REPEALING SECTION 65-106, IDAHO CODE, RELATING TO THE APPLICATION TO THE LEGISLATURE FOR APPROPRIATION.

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

SECTION 1. That Section 65-102, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 65-103, Idaho Code, be, and the same is hereby amended to read as follows:

65-103. SPECIAL TAX FOR UPKEEP OF MEMORIALS. The board of county commissioners of each county within the state of Idaho is hereby authorized and empowered to levy annually a special tax not to exceed one hundredth percent (.01%) of the market value for assessment purposes on all the taxable property in the county for the purpose of creating a fund to be used in the maintenance, upkeep and repair, or in assisting in the maintenance, upkeep and repair of ~~service-men's~~ servicemen's memorials now constructed or hereafter to be constructed within the county by the county or any association therein under the provisions of sections 65-101 and 65-102, Idaho Code, or of any such memorial owned by the county: provided, the provisions of this section, and the benefits thereof, shall apply likewise to the repair and maintenance of ~~service-men's~~ servicemen's memorials now constructed or hereafter to be constructed where no state and/or county moneys were employed in the building of such memorial.

SECTION 3. That Section 65-105, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 65-106, Idaho Code, be, and the same is hereby repealed.

Approved March 23, 2021

CHAPTER 135
(H.B. No. 48)

AN ACT

RELATING TO SERVICE MEMBERS; REPEALING SECTION 65-509, IDAHO CODE, RELATING TO THE AUTHORIZATION OF MALES EIGHTEEN YEARS OF AGE OR OLDER TO CONTRACT UNDER THE G. I. BILL OF RIGHTS.

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

SECTION 1. That Section 65-509, Idaho Code, be, and the same is hereby repealed.

Approved March 23, 2021

CHAPTER 136
(H.B. No. 124)

AN ACT

RELATING TO DEVELOPMENT IMPACT FEE ADVISORY COMMITTEE MEMBERSHIP; AMENDING SECTION 67-8205, IDAHO CODE, TO REVISE PROVISIONS REGARDING MEMBERSHIP REQUIREMENTS OF A DEVELOPMENT IMPACT FEE ADVISORY COMMITTEE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-8205, Idaho Code, be, and the same is hereby amended to read as follows:

67-8205. DEVELOPMENT IMPACT FEE ADVISORY COMMITTEE. (1) Any governmental entity ~~which that~~ is considering or ~~which that~~ has adopted a development impact fee ordinance, shall establish a development impact fee advisory committee.

(2) (a) The development impact fee advisory committee shall be composed of not fewer than five (5) members appointed by the governing authority of the governmental entity.

(b) Two (2) or more members shall be active in the business of development, building, or real estate. An existing planning or planning and zoning commission may serve as the development impact fee advisory committee if the commission includes two (2) or more members who are active in the business of development, building, or real estate; otherwise, two (2) such members who are not employees or officials of a governmental entity shall be appointed to the committee.

(c) New appointments and reappointments to a committee on and after July 1, 2021, must comply with the provisions of this paragraph. All members must reside within the jurisdictional boundaries of the governmental entity. Two (2) or more members shall be active in the business of development, building, or real estate. Two (2) or more members shall not be in the business of development, building, or real estate. Employees or officials acting in their official capacity for a governmental entity may not be appointed as members of the committee. An existing planning or planning and zoning commission may serve as the development impact fee advisory committee for the governing authority if the commission includes two (2) or more members who are active in the business of development, building, or real estate and two (2) or more members who are not in such business; otherwise, two (2) such members who are not employees or officials of a governmental entity shall be appointed to the committee until the membership requirements of this subsection are met.

(3) The development impact fee advisory committee shall serve in an advisory capacity and is established to:

(a) Assist the governmental entity in adopting land use assumptions;

(b) Review the capital improvements plan, and proposed amendments, and file written comments;

(c) Monitor and evaluate implementation of the capital improvements plan;

(d) File periodic reports, at least annually, with respect to the capital improvements plan and report to the governmental entity any perceived inequities in implementing the plan or imposing the development impact fees; and

(e) Advise the governmental entity of the need to update or revise land use assumptions, the capital improvements plan, and development impact fees.

(4) The governmental entity shall make available to the advisory committee, upon request, all financial and accounting information, professional reports in relation to other development and implementation of land use assumptions, the capital improvements plan, and periodic updates of the capital improvements plan.

Approved March 23, 2021

CHAPTER 137
(H.B. No. 127)

AN ACT

RELATING TO THE IDAHO BROADBAND FUND; AMENDING CHAPTER 47, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4760, IDAHO CODE, TO ESTABLISH THE IDAHO BROADBAND FUND; AMENDING CHAPTER 47, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4761, IDAHO CODE, TO ESTABLISH THE IDAHO BROADBAND ADVISORY BOARD; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 47, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-4760, Idaho Code, and to read as follows:

67-4760. IDAHO BROADBAND FUND. There is hereby created in the state treasury the Idaho broadband fund that will consist of such sums as may be appropriated by the legislature for the purpose of providing financial assistance in broadband infrastructure to promote equal access in economic development, public safety, telehealth, and education. Expenditures from the fund will be prioritized based on the statewide broadband plan developed by the Idaho broadband advisory board established pursuant to section 67-4761, Idaho Code, and must be approved by the board. Interest earnings from the investment of moneys in this fund by the state treasurer shall be returned to the fund.

SECTION 2. That Chapter 47, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-4761, Idaho Code, and to read as follows:

67-4761. IDAHO BROADBAND ADVISORY BOARD. (1) There is hereby created within the department of commerce the Idaho broadband advisory board. The advisory board shall consist of three (3) members of the house of representatives appointed by the speaker of the house of representatives, three (3) members of the senate appointed by the president pro tempore of the senate, and three (3) members of the public appointed by the governor.

(2) The advisory board shall be responsible for creating a statewide broadband plan that will determine the manner of structuring, prioritizing, and dispersing grants from the Idaho broadband fund to areas of the state that are most in need and shall have the authority to determine which broadband projects are undertaken pursuant to this section. In the preparation, adoption, and implementation of the statewide broadband plan, the advisory board shall solicit the participation and assistance of state agencies with pertinent expertise. All agencies of the state of Idaho shall cooperate with the advisory board by providing requested research, information, and studies pertaining in any manner to the statewide broadband plan.

(3) Once the statewide broadband plan has been adopted by a majority vote of the broadband advisory board, copies of the plan shall be filed in the office of the governor, posted on the website of the advisory board or the department of commerce, and published and distributed in any other manner determined appropriate by the advisory board.

(4) Following adoption of the statewide broadband plan, the board shall administer the implementation of the plan and shall maintain and revise the plan as necessary.

(5) Any state agency may petition the board to revise the statewide broadband plan. The board shall review any petition filed pursuant to this section within three (3) months after it is filed and shall either take action to revise the broadband plan or set forth its reasons for denying the request in writing.

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, 2021

CHAPTER 138
(H.B. No. 172)

AN ACT

RELATING TO EXTENDED LEARNING OPPORTUNITIES; AMENDING TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 64, TITLE 33, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING EXTENDED LEARNING OPPORTUNITIES, TO ESTABLISH PROVISIONS REGARDING CREDIT FOR EXTENDED LEARNING OPPORTUNITIES AND POLICIES, TO ESTABLISH PROVISIONS REGARDING POLICIES, PROCEDURES, AND A CERTAIN AGREEMENT, TO ESTABLISH PROVISIONS REGARDING CREDIT FOR PRIOR KNOWLEDGE, AND TO PROVIDE RULEMAKING AUTHORITY.

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 64, Title 33, Idaho Code, and to read as follows:

CHAPTER 64
EXTENDED LEARNING OPPORTUNITIES

33-6401. **EXTENDED LEARNING OPPORTUNITIES.** Students attending public schools in Idaho shall be eligible for extended learning opportunities outside of the traditional classroom. For the purposes of this chapter, "extended learning opportunity" means an out-of-classroom learning experience that provides a student with:

- (1) Enrichment opportunities outside of a classroom setting;
- (2) Career readiness or employability skills, including internships, pre-apprenticeships, and apprenticeships; or
- (3) Any other type of out-of-classroom educational opportunity approved by the state board of education or the student's school district or public charter school.

33-6402. CREDIT FOR EXTENDED LEARNING OPPORTUNITIES -- POLICIES. (1) A student may request credit for an extended learning opportunity. If the extended learning opportunity is approved:

(a) By the student's school district or public charter school, then the student shall receive credit toward:

(i) District- or school-specific graduation requirements, if the student is a middle level or high school student; or

(ii) Mastery toward required skills or district- or school-specific standards, if the student is an elementary student; or

(b) By the state board of education, then the student shall receive credit toward:

(i) State graduation requirements, if the student is a middle level or high school student; or

(ii) Mastery toward required skills or state standards, if the student is an elementary student.

(2) Each school district and public charter school shall adopt an extended learning opportunities policy to:

(a) Provide a process through which entities may apply to offer extended learning opportunities that will qualify for credit;

(b) Define which entities are eligible to submit applications to offer extended learning opportunities. These entities may include but are not limited to:

(i) Nonprofit organizations;

(ii) Businesses with established locations in the state;

(iii) Trade associations; and

(iv) For middle level or high school students, the United States armed forces;

(c) Provide for a process through which a student may request credit for an extended learning opportunity; and

(d) Define criteria that the school district or public charter school will use to determine whether a proposed extended learning opportunity qualifies for credit toward:

(i) Core of instruction graduation requirements;

(ii) Electives; or

(iii) Required skills or standards.

(3) The state board of education shall adopt a policy regarding extended learning opportunities.

(4) A school district or a public charter school may award elective credit for an extended learning opportunity that did not qualify for credit toward core of instruction graduation requirements.

(5) Credit earned outside of school may not be used to calculate average daily attendance or enrollment for school funding purposes.

33-6403. POLICIES AND PROCEDURES -- AGREEMENT TO REQUIREMENTS. Policies and procedures established by a school district or a public charter school shall be such that students have an opportunity to request credit for extended learning opportunities and meet district- or school-established timelines and requirements. To earn credit for an extended learning opportunity under this chapter, the student must agree to the requirements set forth by the school district or public charter school.

33-6404. CREDIT FOR PRIOR KNOWLEDGE. (1) Starting in fiscal year 2023, a high school student may request credit for a course by demonstrating an understanding of subject area content standards. The board of each school district and public charter school shall adopt a policy to:

(a) Provide a process through which a student may request credit for prior knowledge;

(b) Establish methods by which a student can demonstrate knowledge of the subject area content. Methods may include but are not limited to:

- (i) Assessments;
- (ii) Performance-based assessments;
- (iii) Presentations, major projects, or papers;
- (iv) Performance or portfolios; or
- (v) Other methods independent of instructional time and credit hours;

(c) Determine the qualifying score or grade, the minimum of which should not exceed eighty percent (80%), that a student must earn in order to receive a pass and earn credit for a course.

(2) If a student earns credit under this section, then the student shall be counted as having completed all required coursework for that course and, if applicable, the prerequisite requirements that the course satisfies. A course for which a student is awarded credit under this section shall also be counted as satisfying the equivalent number of credits toward the student's graduation requirements.

(3) If credit is earned under this section, a student may not subsequently receive credit for a course earlier in the course sequence in the same subject area.

33-6405. RULEMAKING AUTHORITY. The state board of education may promulgate rules to implement the provisions of this chapter.

Approved March 23, 2021

CHAPTER 139
(H.B. No. 308)

AN ACT

RELATING TO THE APPROPRIATION TO THE IDAHO TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 2021; APPROPRIATING AND TRANSFERRING MONEYS FROM THE GENERAL FUND TO THE STATE AERONAUTICS (DEDICATED) FUND; APPROPRIATING AND TRANSFERRING MONEYS FROM THE GENERAL FUND TO THE STRATEGIC INITIATIVES PROGRAM (DEDICATED) FUND; APPROPRIATING AND TRANSFERRING MONEYS FROM THE GENERAL FUND TO THE LOCAL HIGHWAY DISTRIBUTION FUND; APPROPRIATING AND TRANSFERRING MONEYS FROM THE GENERAL FUND TO THE STRATEGIC INITIATIVES PROGRAM (LOCAL) FUND; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR THE AERONAUTICS PROGRAM FOR FISCAL YEAR 2021; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR THE CONTRACT CONSTRUCTION AND RIGHT-OF-WAY ACQUISITION PROGRAM FOR CAPITAL OUTLAY FOR FISCAL YEAR 2021; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR THE CONTRACT CONSTRUCTION AND RIGHT-OF-WAY ACQUISITION PROGRAM FOR TRUSTEE AND BENEFIT PAYMENTS FOR FISCAL YEAR 2021; AND DECLARING AN EMERGENCY.

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

SECTION 1. CASH TRANSFER. There is hereby appropriated and the Office of the State Controller shall transfer \$4,000,000 from the General Fund to the State Aeronautics (Dedicated) Fund as soon as practicable for the period July 1, 2020, through June 30, 2021.

SECTION 2. CASH TRANSFER. There is hereby appropriated and the Office of the State Controller shall transfer \$72,800,000 from the General Fund to the Strategic Initiatives Program (Dedicated) Fund as soon as practicable for the period July 1, 2020, through June 30, 2021.

SECTION 3. CASH TRANSFER. There is hereby appropriated and the Office of the State Controller shall transfer \$47,200,000 from the General Fund to the Local Highway Distribution Fund as soon as practicable for the period July 1, 2020, through June 30, 2021.

SECTION 4. CASH TRANSFER. There is hereby appropriated and the Office of the State Controller shall transfer \$2,000,000 from the General Fund to the Strategic Initiatives Program (Local) Fund as soon as practicable for the period July 1, 2020, through June 30, 2021.

SECTION 5. In addition to the appropriation made in Section 1, Chapter 195, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Idaho Transportation Department for the Aeronautics Program \$2,000,000 from the State Aeronautics (Dedicated) Fund to be expended for trustee and benefit payments for the period July 1, 2020, through June 30, 2021.

SECTION 6. In addition to the appropriation made in Section 1, Chapter 195, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Idaho Transportation Department for the Contract Construction and Right-of-Way Acquisition Program \$15,000,000 from the Strategic Initiatives Program (Dedicated) Fund to be expended for capital outlay for the period July 1, 2020, through June 30, 2021.

SECTION 7. In addition to the appropriation made in Section 1, Chapter 195, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the Idaho Transportation Department for the Contract Construction and Right-of-Way Acquisition Program \$2,000,000 from the Strategic Initiatives Program (Local) Fund to be expended for trustee and benefit payments for the period July 1, 2020, through June 30, 2021.

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 23, 2021

CHAPTER 140
(H.B. No. 312)

AN ACT

RELATING TO THE APPROPRIATION TO THE INDUSTRIAL COMMISSION FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE INDUSTRIAL COMMISSION FOR FISCAL YEAR 2022; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AMENDING SECTION 72-503, IDAHO CODE, TO INCREASE THE SALARIES OF THE INDUSTRIAL COMMISSIONERS; AND REQUIRING REPORTS REGARDING BUSINESS AND TECHNOLOGY MODERNIZATION.

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, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. COMPENSATION:				
FROM:				
Industrial Administration				
Fund	\$5,602,900	\$5,106,600	\$1,355,600	\$12,065,100
Peace Officer and Detention Officer Temporary Disability				
Fund	8,800	3,800	156,100	168,700
Miscellaneous Revenue				
Fund	<u>0</u>	<u>45,000</u>	<u>0</u>	<u>45,000</u>
TOTAL	\$5,611,700	\$5,155,400	\$1,511,700	\$12,278,800
II. REHABILITATION:				
FROM:				
Industrial Administration				
Fund	\$3,628,000	\$633,700		\$4,261,700
III. CRIME VICTIMS COMPENSATION:				
FROM:				
General				
Fund			\$294,000	\$294,000
Crime Victims Compensation				
Fund	\$882,900	\$663,100	2,000,000	3,546,000
Federal Grant				
Fund	<u>0</u>	<u>0</u>	<u>1,200,000</u>	<u>1,200,000</u>
TOTAL	\$882,900	\$663,100	\$3,494,000	\$5,040,000
GRAND TOTAL	\$10,122,600	\$6,452,200	\$5,005,700	\$21,580,500

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Industrial Commission is authorized no more than one hundred thirty-three and twenty-five hundredths (133.25) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. That Section 72-503, Idaho Code, be, and the same is hereby amended to read as follows:

72-503. SALARY. Commencing July 1, 2020~~1~~, the annual salary of each member of the industrial commission shall be one hundred nine eleven thousand ~~two~~ four hundred ~~eighty-four~~ seventy dollars (~~\$109,284~~111,470). Industrial commissioner salaries shall be paid from sources set by the legislature. Each member of the industrial commission shall devote full time to the performance of his duties.

SECTION 4. BUSINESS AND TECHNOLOGY MODERNIZATION. In accordance with Section 1, Article VIII, of the Constitution of the State of Idaho, of the amount appropriated in Section 1 of this act, \$2,844,200 from the Industrial Administration Fund and \$387,800 from the Crime Victims Compensation Fund comprise the second of four onetime appropriations for the commission's business and technology modernization, subject to the availability of funds and satisfactory project implementation. On or before September 1 of each year, the commission shall report to the Legislature regarding the specific efforts made to upgrade its business applications, the outcomes of those efforts, and an estimate of the appropriation amount needed to continue those efforts.

Approved March 23, 2021

CHAPTER 141
(H.B. No. 313)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 2022; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Fish and Game the following amounts to be expended according to the designated programs and expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
Fish and Game (Licenses)					
Fund	\$4,726,100	\$4,738,400	\$4,511,200		\$13,975,700
Fish and Game (Other)					
Fund	858,900	122,000			980,900
Fish and Game Set-Aside (Licenses)					
Fund	200	35,200			35,400
Fish and Game Set-Aside (Other)					
Fund	18,000	21,200			39,200
Expendable Big Game Depredation					
Fund		2,900			2,900
Fish and Game Expendable Trust					
Fund		8,000			8,000
Fish and Game Nonexpendable Trust					
Fund		3,600			3,600
Fish and Game (Federal)					
Fund	<u>3,804,300</u>	<u>5,108,500</u>	<u>78,000</u>		<u>8,990,800</u>
TOTAL	\$9,407,500	\$10,039,800	\$4,589,200		\$24,036,500
II. ENFORCEMENT:					
FROM:					
Fish and Game (Licenses)					
Fund	\$10,284,800	\$2,272,700	\$164,100		\$12,721,600
Fish and Game (Other)					
Fund	201,600	77,000			278,600
Fish and Game Set-Aside (Other)					
Fund		20,600			20,600
Fish and Game Expendable Trust					
Fund		26,400			26,400
Fish and Game (Federal)					
Fund	<u>9,600</u>	<u>6,700</u>	<u>0</u>		<u>16,300</u>
TOTAL	\$10,496,000	\$2,403,400	\$164,100		\$13,063,500
III. FISHERIES:					
FROM:					
Fish and Game (Licenses)					
Fund	\$4,029,100	\$3,636,900	\$300,200		\$7,966,200
Fish and Game (Other)					
Fund	2,988,400	5,944,400			8,932,800
Fish and Game Set-Aside (Licenses)					
Fund	364,700	566,800			931,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Fish and Game Set-Aside (Other)					
Fund	39,800	3,500			43,300
Fish and Game Expendable Trust					
Fund	48,000	334,200			382,200
Fish and Game Nonexpendable Trust					
Fund		33,200			33,200
Fish and Game (Federal)					
Fund	<u>13,140,300</u>	<u>13,833,700</u>	<u>0</u>		<u>26,974,000</u>
TOTAL	\$20,610,300	\$24,352,700	\$300,200		\$45,263,200

IV. WILDLIFE:

FROM:

Fish and Game (Licenses)					
Fund	\$4,849,200	\$4,284,300	\$113,000	\$174,800	\$9,421,300
Fish and Game (Other)					
Fund	328,200	455,400			783,600
Fish and Game Set-Aside (Licenses)					
Fund		100,000			100,000
Fish and Game Set-Aside (Other)					
Fund	903,400	295,200			1,198,600
Fish and Game Expendable Trust					
Fund	347,500	723,600			1,071,100
Fish and Game Nonexpendable Trust					
Fund	11,500	2,300			13,800
Fish and Game (Federal)					
Fund	<u>7,006,700</u>	<u>8,074,900</u>	<u>0</u>	<u>0</u>	<u>15,081,600</u>
TOTAL	\$13,446,500	\$13,935,700	\$113,000	\$174,800	\$27,670,000

V. COMMUNICATIONS:

FROM:

Fish and Game (Licenses)					
Fund	\$1,822,400	\$811,200	\$82,600		\$2,716,200
Fish and Game (Other)					
Fund	19,700	154,000			173,700
Fish and Game Set-Aside (Other)					
Fund	800	16,100			16,900
Fish and Game Expendable Trust					
Fund	29,600	80,300			109,900
Fish and Game (Federal)					
Fund	<u>1,463,400</u>	<u>892,900</u>	<u>0</u>		<u>2,356,300</u>
TOTAL	\$3,335,900	\$1,954,500	\$82,600		\$5,373,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VI. WILDLIFE MITIGATION AND HABITAT CONSERVATION:					
FROM:					
Fish and Game (Licenses)					
Fund	\$1,098,800	\$287,600	\$11,100		\$1,397,500
Fish and Game (Other)					
Fund	53,400	7,800			61,200
Fish and Game Set-Aside (Licenses)					
Fund	117,200	3,078,900			3,196,100
Fish and Game Set-Aside (Other)					
Fund	35,500	5,100			40,600
Expendable Big Game Depredation					
Fund				\$1,100,000	1,100,000
Fish and Game (Federal)					
Fund	<u>245,600</u>	<u>6,731,400</u>	<u>0</u>	<u>0</u>	<u>6,977,000</u>
TOTAL	\$1,550,500	\$10,110,800	\$11,100	\$1,100,000	\$12,772,400
GRAND TOTAL	\$58,846,700	\$62,796,900	\$5,260,200	\$1,274,800	\$128,178,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Fish and Game is authorized no more than five hundred fifty-three (553.00) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 23, 2021

CHAPTER 142
(H.B. No. 318)

AN ACT

RELATING TO THE APPROPRIATION TO THE STATE BOARD OF EDUCATION FOR COMMUNITY COLLEGES; APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR COMMUNITY COLLEGES FOR FISCAL YEAR 2022; EXEMPTING THE APPROPRIATION FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS; APPROPRIATING ADDITIONAL MONEYS TO THE STATE BOARD OF EDUCATION FOR COMMUNITY COLLEGES FOR FISCAL YEAR 2021; 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 for Community Colleges the following amounts to be expended according to the designated programs and expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. COLLEGE OF SOUTHERN IDAHO:					
FROM:					
General					
Fund	\$13,027,400	\$1,758,700	\$507,400		\$15,293,500
Community College					
Fund		200,000			200,000
Federal COVID-19 Relief					
Fund	<u>0</u>	<u>1,637,500</u>	<u>0</u>		<u>1,637,500</u>
TOTAL	\$13,027,400	\$3,596,200	\$507,400		\$17,131,000
II. COLLEGE OF WESTERN IDAHO:					
FROM:					
General					
Fund	\$13,539,600	\$3,639,100			\$17,178,700
Community College					
Fund		200,000			200,000
Federal COVID-19 Relief					
Fund	<u>0</u>	<u>12,156,400</u>			<u>12,156,400</u>
TOTAL	\$13,539,600	\$15,995,500			\$29,535,100
III. NORTH IDAHO COLLEGE:					
FROM:					
General					
Fund	\$11,066,500	\$1,904,100			\$12,970,600
Community College					
Fund		175,000	\$25,000		200,000

	FOR	FOR	FOR	FOR	
	PERSONNEL	OPERATING	CAPITAL	TRUSTEE AND	
	COSTS	EXPENDITURES	OUTLAY	BENEFIT	TOTAL
				PAYMENTS	
Federal COVID-19 Relief					
Fund	<u>0</u>	<u>3,540,500</u>	<u>0</u>		<u>3,540,500</u>
TOTAL	\$11,066,500	\$5,619,600	\$25,000		\$16,711,100
IV. COLLEGE OF EASTERN IDAHO:					
FROM:					
General					
Fund	\$5,297,600	\$20,000			\$5,317,600
Community College					
Fund	200,000				200,000
Federal COVID-19 Relief					
Fund	<u>0</u>	<u>2,665,600</u>			<u>2,665,600</u>
TOTAL	\$5,497,600	\$2,685,600			\$8,183,200
V. CC SYSTEMWIDE:					
FROM:					
General					
Fund		\$39,200		\$1,000,000	\$1,039,200
GRAND TOTAL	\$43,131,100	\$27,936,100	\$532,400	\$1,000,000	\$72,599,600

SECTION 2. EXEMPTIONS FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS. The State Board of Education for Community Colleges is hereby exempted from the provisions of Section 67-3511(1), (2), and (3), Idaho Code, allowing unlimited transfers between object codes and between programs for all moneys appropriated to it for the period July 1, 2021, through June 30, 2022. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 3. In addition to the appropriation made in Section 1, Chapter 166, Laws of 2020, and any other appropriation provided by law, there is hereby appropriated to the State Board of Education for Community Colleges \$23,321,400 from the Federal COVID-19 Relief Fund to be expended for operating expenditures for the period July 1, 2020, through June 30, 2021.

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 23, 2021

CHAPTER 143
(S.B. No. 1096)

AN ACT

RELATING TO PERSI; AMENDING CHAPTER 13, TITLE 59, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 59-1352B, IDAHO CODE, TO PROVIDE FOR PUBLIC SAFETY OFFICER CATASTROPHIC LINE OF DUTY BENEFITS.

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

SECTION 1. That Chapter 13, Title 59, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 59-1352B, Idaho Code, and to read as follows:

59-1352B. PUBLIC SAFETY OFFICER CATASTROPHIC LINE OF DUTY BENEFITS. (1) For purposes of this section:

(a) "Catastrophic injury" means a sudden, violent, life-threatening, duty-related injury sustained by an active member within the scope of the public safety officer's duties and within the department policy that is due to an externally caused event such as a motor vehicle collision, gunshot wound, aggravated battery, structural collapse, significant fall, or other external event or events that is not self-inflicted or the result of intoxication; provided, however, that no psychological injury, disorder, or condition shall be considered a catastrophic injury under this definition. The injury must be of such severity that it causes the loss of ability to maintain certifications required by the state of Idaho, the member's department, or both. The injury shall be supported by evidence of one (1) or more of the following conditions:

(i) Total, complete, permanent, and uncorrectable loss of sight in both eyes;

(ii) Total, complete, permanent, and uncorrectable loss of hearing in both ears;

(iii) Total, complete, and permanent loss of the ability to speak;

(iv) Total, complete, and permanent loss of the use of one (1) or both feet at or above the ankle;

(v) Total, complete, and permanent loss of the use of one (1) or both hands at or above the wrist;

(vi) Injury to the spine that results in a total, permanent, and complete paralysis of both arms, both legs, or one (1) arm and one (1) leg; or

(vii) An externally caused, physical traumatic injury to the brain that renders the member physically or mentally unable to perform the duties of a public safety officer.

(b) "Catastrophic line of duty benefits" means benefits payable to a public safety officer who sustains a catastrophic injury pursuant to this section.

(c) "Public safety officer" means a police officer member as set forth in section 59-1303, Idaho Code, or a firefighter member as set forth in section 59-1302(16), Idaho Code.

(2) A public safety officer who sustains a catastrophic injury as set forth in this section is eligible for:

(a) A onetime permanent catastrophic injury benefit in the amount of five hundred thousand dollars (\$500,000); and

(b) An ongoing annual benefit in an amount not less than seventy-five thousand dollars (\$75,000) per year, to be adjusted every four (4) years pursuant to an actuarial study to determine the change in average public safety officer benefits over the previous four (4) years.

(3) In the event a public safety officer receiving the catastrophic line of duty benefit as set forth in this section dies and leaves a surviving spouse to whom the member was married at the time of the catastrophic injury, such surviving spouse shall receive the catastrophic line of duty benefit for the duration of such spouse's life to which the public safety officer would have been entitled.

(4) The benefits payable under this section shall not be subject to Idaho state income tax.

(5) A public safety officer who seeks to obtain benefits under this section shall apply to the retirement board within twelve (12) months of the date of the incident resulting in the public safety officer's catastrophic injury. No benefit shall be payable unless the retirement board determines eligibility pursuant to the requirements of this section. A public safety officer's refusal to submit to a medical examination ordered by the board before the commencement of a catastrophic line of duty benefit or at any reasonable time thereafter shall constitute proof that the member is not eligible for the benefits provided for in this section.

(6) The benefits provided for in this section shall not be in addition to other benefits under this chapter.

(7) If a public safety officer who qualifies for benefits provided for in this section again becomes an employee in a nonpublic safety officer position as defined in sections 59-1302(14) and (16) and 59-1303, Idaho Code, as a result of returning to employment with an employer as defined in section 59-1302(15), Idaho Code, the public safety officer may elect to continue receiving benefits and not accrue additional service. In such circumstance, no contributions shall be made by the member during such reemployment and the public safety officer catastrophic line of duty benefit payable on the behalf of the member shall continue.

(8) It is the intent of the legislature that this benefit shall be funded solely by public safety officers in perpetuity and not by an employer as defined in section 59-1302(15), Idaho Code. Therefore, the costs associated with providing this benefit as determined by the board shall be paid solely by public safety officers. An actuarial cost analysis of the benefit will be performed every four (4) years by the board.

Approved March 24, 2021

CHAPTER 144
(S.B. No. 1022)

AN ACT

RELATING TO APPROPRIATIONS; APPROPRIATING AND TRANSFERRING MONEYS FROM THE GENERAL FUND TO THE LEGISLATIVE LEGAL DEFENSE FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. CASH TRANSFER. There is hereby appropriated and the Office of the State Controller shall transfer \$4,000,000 from the General Fund to the Legislative Legal Defense Fund as soon as practicable for the period July 1, 2020, through June 30, 2021.

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 26, 2021

CHAPTER 145
(H.B. No. 81)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-2835, IDAHO CODE, TO INCREASE THE MAXIMUM NUMBER ON A BOARD OF DIRECTORS FOR CERTAIN INSURERS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 41-2835, Idaho Code, be, and the same is hereby amended to read as follows:

41-2835. DIRECTORS. (1) The affairs of every domestic insurer shall be managed by a board of directors consisting of not less than five (5) directors ~~nor~~ or more than fifteen twenty-five (125) directors.

(2) Directors shall be elected by the members or stockholders of a domestic insurer at the annual meeting of stockholders or members. Directors may be elected for terms of not more than five (5) years each and until their successors are elected and have qualified, and if, to be elected for terms of more than one (1) year, the insurer's bylaws shall provide for a staggered term system under which the terms of a proportionate part of the members of the board of directors shall expire on the date of each annual meeting of stockholders or members.

(3) A director of a mutual insurer shall be a policyholder thereof.

(4) As to an insurer operating as an authorized insurer only in the state of Idaho, a majority of the members of the insurer's board of directors shall be citizens of and shall actually reside in this state.

(5) Notwithstanding the provisions of subsection (1) of this section, a service corporation converted to a mutual insurer pursuant to section 41-2854A, Idaho Code, shall be managed by a board of directors consisting of not less than five (5) directors ~~not~~ or more than twenty-five (25) directors. In the case of a service corporation that was a professional service corporation under chapter 34, title 41, Idaho Code, immediately prior to the effective date of its plan of mutualization, the board of directors after the effective date may include professionals of the kind or kinds designated in the corporation's articles of incorporation as participant licensees immediately prior to such effective date, ~~so~~ as long as a majority of directors are not professionals of the kind or kinds so designated. In the case of a service corporation that was a hospital service corporation under chapter 34, title 41, Idaho Code, immediately prior to the effective date of its plan of mutualization, the board of directors after the effective date shall include one (1) or more individuals representing a hospital or hospitals, ~~so~~ as long as a majority of directors are not representing or employed by any hospital. In the case of a service corporation that was a combined professional service and hospital service corporation under chapter 34, title 41, Idaho Code, immediately prior to the effective date of its plan of mutualization, the board of directors after the effective date shall include one (1) or more individuals representing a hospital or hospitals, and one (1) or more professionals of the kind or kinds designated in the corporation's articles of incorporation as participant licensees immediately prior to such effective date, ~~so~~ as long as a majority of directors are neither such professionals nor representing or employed by any hospital, nor any combination thereof; further, the number of directors who are hospital representatives shall equal the number of directors who are professionals of the kind or kinds designated as participant licensees in the corporation's articles of incorporation in effect immediately prior to such effective date. Notwithstanding the provisions of subsection (3) of this section, a director elected as a hospital representative need not be a policyholder ~~so~~ as long as the represented hospital is a policyholder.

Approved April 8, 2021

CHAPTER 146
(H.B. No. 70)

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; AMENDING SECTION 23-513, IDAHO CODE, TO REVISE THE TERM OF A PERMIT OR LICENSE.

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

SECTION 1. That Section 23-513, Idaho Code, be, and the same is hereby amended to read as follows:

23-513. TERM OF PERMITS OR LICENSES. Every permit or license issued by the division shall expire ~~on December 31st of the year in which~~ twelve (12) months from the date issued.

Approved April 8, 2021

CHAPTER 147
(H.B. No. 233)

AN ACT

RELATING TO JUVENILES; AMENDING CHAPTER 24, TITLE 16, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 16-2426A, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING THE PREVENTION OF A CHILD'S REMOVAL FROM THE CUSTODY OF THE CHILD'S PARENT OR GUARDIAN UNDER CERTAIN CIRCUMSTANCES.

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

SECTION 1. That Chapter 24, Title 16, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 16-2426A, Idaho Code, and to read as follows:

16-2426A. SERIOUS BEHAVIORAL HEALTH CONDITIONS -- PREVENTION OF REMOVAL FROM CUSTODY. (1) The department shall not make a substantiated disposition that a child has been abused, neglected, or abandoned by a parent or guardian under the child protective act, chapter 16, title 16, Idaho Code, because of a request for inpatient hospital treatment or an out-of-home placement for the child, if the child's recent mental health condition demonstrates that the child is likely to cause harm to himself or to suffer substantial mental or physical deterioration, and/or is likely to cause harm to others, and if the risk cannot be eliminated before returning the child to the child's family.

(2) In order to intercept and divert children at risk of being removed from their parent's or guardian's custody under chapter 16, title 16, Idaho Code, the department, within one hundred eighty (180) days after the effective date of this section, shall enter into an interagency agreement with appropriate agencies for the purpose of preventing children who are not otherwise abused or neglected from entering the custody of the department for purposes of receiving services for serious emotional disturbance. The interagency agreement shall require the department to establish an interagency clinical team to review cases of children who are at the hospital or another similar treatment facility and to connect the child and his family with the appropriate services, treatment, and support in order to stabilize the child's serious emotional disturbance and to prevent removal by the department under chapter 16, title 16, Idaho Code.

Approved April 8, 2021

CHAPTER 148
(H.B. No. 85)

AN ACT

RELATING TO PURPLE HEART LICENSE PLATES; AMENDING SECTION 49-403A, IDAHO CODE, TO PROVIDE FOR THE REGISTRATION OF MULTIPLE VEHICLES; AND AMENDING SECTION 49-403C, IDAHO CODE, TO PROVIDE FOR THE REGISTRATION OF MULTIPLE MOTORCYCLES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 49-403A, Idaho Code, be, and the same is hereby amended to read as follows:

49-403A. PURPLE HEART RECIPIENT -- LICENSE PLATES. (1) Purple heart recipient license plates are available to any applicant who is a veteran or an active or retired member of any of the armed forces of the United States, reserve forces or Idaho national guard and who furnishes proof of entitlement by providing one (1) of the following documents:

- (a) A copy of form DD214 or equivalent document showing an award of the purple heart medal;
- (b) A copy of the certificate presented with the medal; or
- (c) A copy of the military order describing the award of the medal to the applicant.

(2) In addition to the regular registration fee, the applicant shall be charged the plate fee required in section 49-450, Idaho Code. Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the registration shall expire, but the purple heart recipient may transfer his plates to another vehicle upon payment of the required transfer fees. He may display the plates only after receipt of new registration from the department. A purple heart recipient shall not ~~may register more than two~~ (2) multiple vehicles under the provisions of this section. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds, nor to any vehicle registered under section 49-434 (5), Idaho Code.

(3) Purple heart recipient license plates may be retained and displayed on vehicles owned by the surviving spouse of a deceased purple heart recipient. In addition, the surviving spouse of a deceased purple heart recipient is eligible to reapply for and shall be issued purple heart recipient license plates if the deceased purple heart recipient died on or after January 1 of the five (5) years preceding the date of reapplication for the plates. Such plates shall be used on a vehicle owned by the surviving spouse.

(4) The purple heart recipient license plates shall be of a color and design acceptable to the military order of the purple heart association and approved by the department, utilizing a numbering system as determined by the department.

(5) Effective January 1, 2015, for those purple heart recipients who are listed as an owner of the vehicle who also qualify as disabled pursuant to section 49-410, Idaho Code, the international accessible symbol will also appear on the purple heart license plates. Such requirements must be met upon application for the license plates. Those plates with the disability symbol shall be nontransferable to a surviving spouse, unless the requirements of section 49-410, Idaho Code, can be met by the spouse.

(6) A purple heart recipient who qualifies for a disabled veteran fee exemption under section 49-403, Idaho Code, shall have a choice between a purple heart recipient license plate or a disabled veteran license plate and shall not be charged a plate fee or a fee for registration or reregistration of the motor vehicle. The provisions of this subsection shall apply to the vehicle originally purchased under this authorization and also to any vehicle subsequently purchased and owned by the same veteran. The privilege shall not extend to more than one (1) vehicle owned by the veteran at a time.

SECTION 2. That Section 49-403C, Idaho Code, be, and the same is hereby amended to read as follows:

49-403C. PURPLE HEART RECIPIENT MOTORCYCLE LICENSE PLATE. (1) On and after January 1, 2015, any person who is the owner of a motorcycle registered under the provisions of section 49-402, Idaho Code, may apply for and upon department approval receive a purple heart motorcycle license plate in lieu of a regular motorcycle license plate.

(2) Purple heart recipient license plates are available to any applicant who is a veteran or an active or retired member of any of the armed forces of the United States, reserve forces or Idaho national guard, and who furnishes proof of entitlement by providing one (1) of the following documents:

- (a) A copy of form DD214 or equivalent document showing an award of the purple heart medal;
- (b) A copy of the certificate presented with the medal; or
- (c) A copy of the military order describing the award of the medal to the applicant.

(3) In addition to the regular registration fee, the applicant shall be charged the plate fee required in section 49-450, Idaho Code. Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the registration shall expire, but the purple heart recipient may transfer his plates to another vehicle upon payment of the required transfer fees. He may only display the plates only after receipt of new registration from the department. A purple heart recipient ~~shall not~~ may register more than two ~~(2)~~ multiple vehicles under the provisions of this section.

(4) Purple heart recipient license plates may be retained and displayed on vehicles owned by the surviving spouse of a deceased purple heart recipient. In addition, the surviving spouse of a deceased purple heart recipient is eligible to reapply for and shall be issued purple heart recipient motorcycle license plates if the deceased purple heart recipient died on or after January 1 of the five (5) years preceding the date of reapplication for the plates. Such plates shall be used on a motorcycle owned by the surviving spouse.

(5) The purple heart recipient motorcycle license plates shall be of a color and design acceptable to the military order of the purple heart association and approved by the department, utilizing a numbering system as determined by the department.

(6) For those purple heart recipients who are listed as an owner on of a motorcycle who also qualify as disabled pursuant to section 49-410, Idaho Code, the international accessible symbol will also appear on the purple heart motorcycle license plates. Such requirements must be met upon application for the motorcycle license plates. Those plates with the disability symbol shall be nontransferable to a surviving spouse, unless the requirements of section 49-410, Idaho Code, can be met by the spouse.

CHAPTER 149
(H.B. No. 86)

AN ACT

RELATING TO OFF-HIGHWAY VEHICLES AND SNOWMOBILES; AMENDING SECTION 67-7101, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 67-7102, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE NUMBERING OF SNOWMOBILES; AMENDING SECTION 67-7103, IDAHO CODE, TO REVISE PROVISIONS REGARDING SNOWMOBILE CERTIFICATES OF NUMBER; AMENDING SECTION 67-7104, IDAHO CODE, TO REVISE PROVISIONS REGARDING NONRESIDENT SNOWMOBILE USER CERTIFICATES; AMENDING SECTION 67-7106, IDAHO CODE, TO PROVIDE FOR SNOWMOBILES, TO REVISE A PROVISION REGARDING A CERTAIN FEE, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-7107, IDAHO CODE, TO PROVIDE FOR SNOWMOBILES; AMENDING SECTION 67-7109, IDAHO CODE, TO PROVIDE FOR SNOWMOBILES; AMENDING SECTION 67-7110, IDAHO CODE, TO PROVIDE FOR SNOWMOBILES; AMENDING SECTION 67-7111, IDAHO CODE, TO PROVIDE FOR OFF-HIGHWAY VEHICLES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-7113, IDAHO CODE, TO PROVIDE FOR OFF-HIGHWAY VEHICLES; AMENDING SECTION 67-7115, IDAHO CODE, TO PROVIDE FOR SNOWMOBILE OPERATORS; AMENDING SECTION 67-7116, IDAHO CODE, TO PROVIDE FOR WINTER RECREATIONAL PARKING PERMITS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-7117, IDAHO CODE, TO PROVIDE FOR WINTER RECREATIONAL PARKING PERMITS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-7118, IDAHO CODE, TO PROVIDE FOR WINTER RECREATIONAL PARKING PERMITS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-7122, IDAHO CODE, TO REVISE PROVISIONS REGARDING OFF-HIGHWAY VEHICLE CERTIFICATES OF NUMBER AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-7123, IDAHO CODE, TO PROVIDE FOR OFF-HIGHWAY VEHICLES, TO REMOVE PROVISIONS REGARDING TRANSFER OF NUMBER CERTIFICATES, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-7124, IDAHO CODE, TO REVISE PROVISIONS REGARDING NONRESIDENT OPERATORS; AMENDING SECTION 67-7125, IDAHO CODE, TO PROVIDE FOR OFF-HIGHWAY VEHICLES, TO PROVIDE A CODE REFERENCE, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-7126, IDAHO CODE, TO REVISE PROVISIONS REGARDING A CERTAIN ACCOUNT; AMENDING SECTION 67-7127, IDAHO CODE, TO PROVIDE FOR OFF-HIGHWAY VEHICLES, TO REVISE PROVISIONS REGARDING A CERTAIN ACCOUNT, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 71, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-7130, IDAHO CODE, TO PROVIDE FOR MULTIPLE YEAR CERTIFICATES; AMENDING CHAPTER 71, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-7131, IDAHO CODE, TO PROVIDE FOR CERTAIN VOLUNTARY DONATIONS; AMENDING SECTION 67-7132, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT SHALL NOT VALIDATE OWNERSHIP AND TO REVISE A PROVISION REGARDING RULEMAKING; AMENDING SECTION 67-7133, IDAHO CODE, TO PROVIDE FOR THE BOARD AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 19-4705, IDAHO CODE, TO REVISE A PROVISION REGARDING CERTAIN VIOLATIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE FOR CERTIFICATES OF NUMBER AND VALIDATION STICKERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-426, IDAHO CODE, TO PROVIDE FOR THE OHV RECREATION ACCOUNT; AMENDING SECTION 49-428, IDAHO CODE, TO PROVIDE FOR VALIDATION STICKERS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-456, IDAHO CODE, TO PROVIDE FOR VALIDATION STICKERS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 49-504, IDAHO CODE, TO PROVIDE AN EXCEPTION FOR CERTAIN OPERATORS WITH CERTIFICATES OF NUMBER AND NONRESIDENT USER CERTIFICATES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-7101, Idaho Code, be, and the same is hereby amended to read as follows:

67-7101. DEFINITIONS. In this chapter:

(1) "All-terrain vehicle" or "ATV" means any recreational motor vehicle designed for or capable of traveling off developed roadways and highways with three (3) or more tires and fifty-five (55) inches or less in width, with a wheelbase of sixty-one (61) inches or less, and with handlebar steering and a seat designed to be straddled by the operator.

(2) "Board" means the park and recreation board created under authority of section 67-4221, Idaho Code.

(3) "Bona fide snowmobile program" means services or facilities as approved by the department that will benefit snowmobilers such as snowmobile trail grooming, plowing and maintaining snowmobile parking areas and facilities, and trail signing.

(4) "Dealer" means any person who engages in the retail sales of or rental of snowmobiles, motorbikes, utility type vehicles or all-terrain vehicles.

(5) "Department" means the Idaho department of parks and recreation.

(6) "Designated parking area" means an area located, constructed, maintained, and signed with the approval of the land manager or owner.

(7) "Director" means the director of the department of parks and recreation.

(8) "Highway." (See section 40-109, Idaho Code, but excepting public roadway as defined in this section)

(9) "Motorbike" means any self-propelled two (2) wheeled motorcycle or motor-driven cycle, excluding tractors, designed for or capable of traveling off developed roadways and highways and also referred to as trailbikes, enduro bikes, trials bikes, motocross bikes or dual purpose motorcycles.

(10) "Off-highway vehicle" or "OHV" means an all-terrain vehicle, motorbike, specialty off-highway vehicle or utility type vehicle as defined in this section.

(11) "Operator" means any person who is in physical control of a motorbike, all-terrain vehicle, utility type vehicle, specialty off-highway vehicle or snowmobile.

(12) "Owner" means every person holding record title to a motorbike, all-terrain vehicle, utility type vehicle, specialty off-highway vehicle or snowmobile and entitled to the use or possession thereof, other than a lienholder or other person having a security interest only.

(13) "Person" means an individual, partnership, association, corporation, or any other body or group of persons, whether incorporated or not, and regardless of the degree of formal organization.

(14) "Public roadway" means all portions of any highway controlled by an authority other than the Idaho transportation department.

(15) "Snowmobile" means any self-propelled vehicle under two thousand (2,000) pounds unladen gross weight, designed primarily for travel on snow or ice or over natural terrain, which may be steered by tracks, skis, or runners.

(16) "Specialty off-highway vehicle" means any vehicle manufactured, designed or constructed exclusively for off-highway operation that does not fit the definition of an all-terrain vehicle, utility type vehicle or motorbike as defined in this section. The vehicle classification provided for in this subsection shall become effective on January 1, 2010.

(17) "Utility type vehicle" or "UTV" means any recreational motor vehicle other than an ATV, motorbike or snowmobile as defined in this section, designed for and capable of travel over designated roads, traveling on four (4) or more tires, maximum width less than eighty (80) inches, and having a wheelbase of one hundred ten (110) inches or less. A utility type vehicle must have a minimum width of fifty (50) inches, a minimum weight of at least

nine hundred (900) pounds or a wheelbase of over sixty-one (61) inches. Utility type vehicle does not include golf carts, vehicles specially designed to carry a disabled person, implements of husbandry as defined in section 49-110(2), Idaho Code, or vehicles otherwise registered under title 49, Idaho Code. A "utility type vehicle" or "UTV" also means a recreational off-highway vehicle or ROV.

(18) "Vendor" means any entity authorized by the department to sell recreational certificates of number and nonresident user certificates.

(19) "Winter recreational parking locations" means designated parking areas established and maintained with funds acquired from the cross-country skiing recreation account.

SECTION 2. That Section 67-7102, Idaho Code, be, and the same is hereby amended to read as follows:

67-7102. SNOWMOBILES -- REQUIREMENT THAT SNOWMOBILES BE NUMBERED. Except as otherwise provided, no snowmobile shall be operated within the jurisdiction of the state of Idaho unless numbered as provided in this chapter.

SECTION 3. That Section 67-7103, Idaho Code, be, and the same is hereby amended to read as follows:

67-7103. SNOWMOBILES -- APPLICATION FOR NUMBER -- ATTACHMENT OF VALIDATION STICKERS -- CERTIFICATE -- APPLICATION FOR TRANSFER OF CERTIFICATE -- TRANSFER OF CERTIFICATE FEE -- TEMPORARY NUMBER -- FEES. (1) ~~On or before November 1 of each year the owner~~ The operator of each snowmobile requiring numbering by the state of Idaho shall ~~file an application for number with the department on forms approved by it. The application shall be signed by the owner and shall, except as provided in subsection (7) of this section, be accompanied by~~ obtain a certificate of number for the snowmobile, which certificate of number shall be issued by season, for seasons running from November 1 through October 31. To obtain a certificate of number, the operator shall pay a fee of thirty-one dollars (\$31.00). Upon receipt of the application fee, the department shall issue to the applicant operator a certificate of number stating the number assigned to the snowmobile and the name and address of the owner. The owner shall attach to the snowmobile the together with a validation sticker to be attached to the snowmobile in a manner as may be prescribed by rules of the department. The validation sticker shall be located on the right and left side of the cowling of the snowmobile and shall be completely visible and shall be maintained in legible condition. The certificate of number shall be pocket size and shall be available at all times for inspection on the snowmobile for which issued, wherever whenever the snowmobile is in operation.

(2) The department may issue any certificate of number directly or may authorize any persons to act as vendor for the issuance. In the event a person accepts the authorization, he may be assigned a block of validation stickers and certificates of number ~~which~~ that, upon issue, in conformity with this chapter and with any rules of the department, shall be valid as if issued directly by the department.

(3) All records of the department made or kept pursuant to this section shall be public records.

(4) Each snowmobile must be numbered before it leaves the premises at the time of sale from any retail snowmobile dealer.

(5) ~~The purchaser of a snowmobile shall, within fifteen (15) days immediately after acquisition, make application to the department for transfer to him of the certificate of number issued to the snowmobile, giving his name, address and the number of the snowmobile and shall at the same time pay to the department a fee of three dollars (\$3.00). Upon receipt of the application and fee, the department shall transfer the certificate of number~~

~~issued for the snowmobile to the new owner or owners. Unless the application is made and fee paid within fifteen (15) days, the snowmobile shall be considered to be without a certificate of number and it shall be unlawful for any person to operate that snowmobile until the certificate is issued.~~

~~(6) No number, other than the validation stickers issued to a the operator and affixed to the snowmobile pursuant to this chapter, shall be painted, attached, or otherwise displayed on the snowmobile, except a temporary number may be attached to identify a snowmobile for the purpose of racing or other sporting events.~~

~~(76) Notwithstanding the provisions of subsection (1) of this section, rResident and nonresident owners of snowmobiles used for rental purposes shall purchase rental validation stickers for sixty-one dollars (\$61.00) and the validation stickers shall be displayed on the machine at all times.~~

SECTION 4. That Section 67-7104, Idaho Code, be, and the same is hereby amended to read as follows:

67-7104. SNOWMOBILES -- NONRESIDENT SNOWMOBILE USER CERTIFICATE REQUIRED. The owner operator of a nonresident, noncommercial snowmobile shall not be required to comply with the certificate of numbering requirements of the state of Idaho, but shall be required to obtain a nonresident snowmobile user certificate in the same manner and for the same seasons as described in section 67-7103, Idaho Code, before operating a snowmobile in Idaho. A fee of thirty-one dollars (\$31.00) shall be imposed for the issuance of a nonresident snowmobile user certificate. The validation stickers shall be displayed in the same manner as provided in section 67-7103, Idaho Code. ~~Nonresident snowmobile user certificates shall be valid beginning November 1 through October 31 of the following year.~~ Issuance and administration of nonresident snowmobile user certificates shall be conducted in the same manner as provided in section 67-7103, Idaho Code, for numbering of snowmobiles.

(1) For purposes of this section, "nonresident" shall be as defined in section 36-202, Idaho Code.

(2) In the absence of a bona fide program in the area or upon the request of the bona fide county snowmobile advisory committee of the nearest affected county in Idaho, the requirements for the nonresident snowmobile user certificate may be waived by the parks and recreation board on specific trails where the snowmobile trail grooming is solely supported by a state other than Idaho.

SECTION 5. That Section 67-7106, Idaho Code, be, and the same is hereby amended to read as follows:

67-7106. SNOWMOBILES -- DISTRIBUTION OF MONEYS COLLECTED -- COUNTY SNOWMOBILE FUND -- STATE SNOWMOBILE FUND -- STATE SNOWMOBILE SEARCH AND RESCUE FUND. (1) Each vendor shall, not later than the fifteenth day of each month, remit all moneys collected under the provisions of sections 67-7103 and 67-7104, Idaho Code, to the state treasurer for credit to the state snowmobile fund, established in the dedicated fund, to be administered by the director, except that one dollar (\$1.00) from each snowmobile certificate of number fee, one dollar (\$1.00) from each rental certificate of number fee, and one dollar (\$1.00) from each nonresident snowmobile user certificate issued by the vendor shall be credited by the state treasurer to the state snowmobile search and rescue fund created in section 67-2913A, Idaho Code.

(2) Each county with a bona fide snowmobile program shall be entitled to receive from the department eighty-five percent (85%) of the moneys generated for that county during that certificate of number period. Counties with a bona fide snowmobile program may use up to fifteen percent (15%) of their

county snowmobile moneys upon recommendation by their county snowmobile advisory committee for snowmobile law enforcement purposes.

(3) Up to fifteen percent (15%) of the revenue generated from snowmobile certificates of number each year may be used by the department to defray administrative costs. Any moneys unused at the end of the fiscal year shall be returned to the state treasurer for deposit in the state snowmobile fund.

(4) Vendors shall be entitled to charge an additional one dollar and fifty cents (\$1.50) handling fee per certificate of number ~~for the distribution of certificates of number~~ or nonresident user certificate. Handling fees collected by the department shall be deposited to the state snowmobile fund.

(5) For those certificates of number not designated to a bona fide county snowmobile program, the moneys generated shall be deposited to the state snowmobile fund, and such fund shall be available to the department for snowmobile-related expenses.

SECTION 6. That Section 67-7107, Idaho Code, be, and the same is hereby amended to read as follows:

67-7107. SNOWMOBILES -- COUNTY ADVISORY COMMITTEE. The county commissioners of any county may appoint snowmobile advisory committees to serve without salaries and wages in an advisory capacity relating to the establishment and maintenance of parking and unloading areas on public and private property, and the expenditure of moneys deposited in the county snowmobile fund; and to serve at the pleasure of the county commissioners. The persons selected shall be active snowmobilers representing snowmobile clubs, organizations, or merchants engaged in the sale or rental of snowmobiles, or be a member of the general public actively engaged in the sport of snowmobiling.

The board of county commissioners is hereby authorized, upon advisement of the special advisory committee, to use and expend the special fund created in section 67-7106, Idaho Code, outside the county.

SECTION 7. That Section 67-7109, Idaho Code, be, and the same is hereby amended to read as follows:

67-7109. SNOWMOBILES -- PROHIBITION AGAINST HIGHWAY OPERATION -- EXCEPTIONS. No person shall operate a snowmobile upon any highway or public roadway in this state, with the following exceptions:

(1) Properly numbered snowmobiles may cross, as directly as possible after a full and complete stop, highways and public roadways, except controlled access highways, provided that the crossing can be made in safety and that it does not interfere with the free movement of vehicular traffic approaching from either direction on the highway or public roadway. It shall be the responsibility of the operator of the snowmobile to yield the right-of-way to all vehicular traffic upon any highway or public roadway before crossing.

(2) Loading or unloading shall be done without causing a hazard to vehicular traffic approaching from either direction on a highway or public roadway. Loading or unloading shall be accomplished with regard to safety, at the nearest possible point to the area of operation.

(3) The prohibition against operating snowmobiles upon highways and public roadways shall not apply to any highway or public roadway drifted or covered with snow to an extent that travel on it by other motor vehicles is impractical or impossible.

(4) Snowmobiles may be operated on that portion of a highway or public roadway right-of-way that is not maintained or utilized for the operation of conventional motor vehicles.

(5) Local authorities may, by ordinance, specifically designate public roadways upon which snowmobiles may be operated.

SECTION 8. That Section 67-7110, Idaho Code, be, and the same is hereby amended to read as follows:

67-7110. SNOWMOBILES -- RESTRICTIONS. It shall be unlawful for any person to drive or operate any snowmobile:

(1) At a rate of speed greater than reasonable and prudent under the existing conditions.

(2) In a negligent manner so as to endanger the person or property of another, or to cause injury or damage to either, or to harass, chase or annoy any wild game animals or birds or domestic animals.

(3) Without a lighted headlight and taillight between the hours of dusk and dawn, or when upon or crossing any public roadway or highway, or when otherwise required for the safety of others.

(4) Without an adequate braking device which may be operated by either hand or foot.

(5) Without an adequate muffler, except when used in conjunction with public racing events.

(6) Upon a public roadway or highway without a valid motor vehicle operator's license, unless the public roadway or highway is closed to other motor vehicle travel.

SECTION 9. That Section 67-7111, Idaho Code, be, and the same is hereby amended to read as follows:

67-7111. ACCIDENT RESULTING IN PERSONAL INJURIES OR PROPERTY DAMAGE. The operator of any snowmobile or OHV involved in any accident resulting in injuries to or death to any person or property damage to property other than the operator's snowmobile or OHV in the estimated amount of two hundred dollars (\$200) or more, or a person acting for the operator, or the owner of the snowmobile or OHV having knowledge of the accident should the operator of the snowmobile or OHV be unknown, shall immediately notify a proper law enforcement agency of the facts relating to the accident and within five (5) days file a report of the circumstances with the department on forms prescribed by the department. For any accident occurring on a highway or public roadway, the owner, the operator, or both shall be subject to the provisions of section 49-2417, Idaho Code.

SECTION 10. 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, any person who violates any provision of 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 one hundred dollars (\$100).

(2) In addition thereto, the operator and/or owner of the snowmobile or OHV 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 11. That Section 67-7115, Idaho Code, be, and the same is hereby amended to read as follows:

67-7115. WINTER RECREATIONAL PARKING PERMIT -- FEE -- FINES -- PERMITS FOR SNOWMOBILE OWNERS -- EXEMPTIONS. (1) Except as hereinafter provided, no person shall, from November 15 of any year to April 30 of the next year, park a vehicle in a winter recreational parking location unless the vehicle displays an annual or temporary parking permit. The annual permit shall be permanently affixed and the temporary permit shall be temporarily affixed on the front window of the vehicle nearest the driver's seat in such a manner that they are completely visible and shall be kept in a legible condition at all times.

(2) The fee for the annual permit and the temporary permit shall be set by the board, but shall not exceed thirty dollars (\$30.00) for the annual permit or ten dollars (\$10.00) for the temporary permit.

(3) The owner of any vehicle, as defined in chapter 1, title 49, Idaho Code, that violates the provisions of subsection (1) of this section has committed an infraction punishable as provided under section 18-113A, Idaho Code, and shall be punished with a fine of not less than twenty dollars (\$20.00) or more than fifty dollars (\$50.00). The fact that a motor vehicle which is illegally parked under the provisions of this chapter is registered or leased in the name of a person shall be considered prima facie evidence that the person was in control of the vehicle at the time of parking.

(4) Snowmobile owners operators, when snowmobiling, shall be allowed to park their transportation vehicles in a designated winter recreational parking area without displaying a parking permit.

(5) No parking permit shall be required under the provisions of this section for a vehicle owned and operated by the United States, any state or a political subdivision of a state, or a vehicle registered in another state, if that vehicle displays a similar cross-country skiing permit, but only to the extent that an exception or privilege is granted under the laws of that state for permit holders from this state.

SECTION 12. That Section 67-7116, Idaho Code, be, and the same is hereby amended to read as follows:

67-7116. WINTER RECREATIONAL PARKING PERMIT -- PRINTING, DISTRIBUTION AND SALE OF WINTER RECREATIONAL PARKING PERMITS. (1) The department shall print the parking permits and shall supervise the sale of the permits throughout the state.

(2) The department shall distribute and sell the permits directly or may authorize vendors under agreement according to rules and regulations of the department. The department may require that the authorized vendors shall be bonded in accordance with rules and regulations of the department. Authorized vendors will receive a stipulated commission for each permit sold.

SECTION 13. That Section 67-7117, Idaho Code, be, and the same is hereby amended to read as follows:

67-7117. WINTER RECREATIONAL PARKING PERMIT -- CROSS-COUNTRY SKIING RECREATION ACCOUNT. There is hereby established in the state treasury an account to be known as the "cross-country skiing recreation account," into which the money specified in section 67-7118, Idaho Code, shall be deposited. The board is charged with the administration of the account for the purposes specified in section 67-7118(3), Idaho Code. All claims against the account shall be examined, audited and allowed in the same manner now or hereafter provided by law for claims against the state, except that

the board is empowered to enter into agreements with the counties for the disbursement of funds to them on a project-by-project basis.

SECTION 14. That Section 67-7118, Idaho Code, be, and the same is hereby amended to read as follows:

67-7118. WINTER RECREATIONAL PARKING PERMIT -- DISTRIBUTION OF FEES. The moneys collected by or for the board on the sale of each winter recreational parking permit shall be allocated as follows:

(1) The authorized vendor shall be entitled to receive a commission of one dollar (\$1.00) on each permit sold, which sum may be retained as compensation for the sale of the permit.

(2) ~~Fifteen per cent~~ percent (15%) shall be allotted to the department for the production of the parking permits and necessary administration expenses incurred by the department in carrying out the provisions of section 67-7115(3), Idaho Code, which moneys shall be placed in the park and recreation ~~account~~ fund.

(3) The balance shall be transmitted to the state treasurer for deposit to the credit of the cross-country skiing recreation account to be appropriated first for the reimbursement for costs incurred in the removal of snow from winter ~~recreation~~ recreational parking locations. Any remaining ~~monies~~ moneys may be appropriated to provide grants to public or nonprofit entities for the acquisition, lease, development, and maintenance of sanitation facilities, trail marking, and other facilities designed to promote the health and safety of persons engaged in cross-country skiing.

SECTION 15. That Section 67-7122, Idaho Code, be, and the same is hereby amended to read as follows:

67-7122. OFF-HIGHWAY VEHICLES -- APPLICATION FOR CERTIFICATE OF NUMBER -- ATTACHMENT OF VALIDATION STICKERS -- CERTIFICATE -- FEES. (1) ~~On or before January 1 of each year, the owner of any all-terrain vehicle, motorbike, specialty off-highway vehicle or utility type vehicle as defined in section 67-7101, Idaho Code, Before operating any OHV in the state of Idaho, the operator of any OHV or any motorcycle as defined in section 49-114, Idaho Code, used off public highways, on highways located on state lands or federal lands which that are not part of the highway system of the state of Idaho, or on highways as prescribed in section 49-426(3) and (4), Idaho Code, but excluding those vehicles used exclusively on private land for agricultural use or used exclusively for snow removal purposes as provided in section 49-426(2), Idaho Code, shall obtain a number certificate of number for that vehicle the OHV at any vendor authorized by the department, which certificate of number shall be issued by season, for seasons running from January 1 through December 31. Effective January 1, 2010, a A fee of twelve dollars (\$12.00) shall be charged for each number certificate of number, of which fee includes a one dollar and fifty cents (\$1.50) fee to shall be retained by the vendor and the remainder of which shall be remitted to the department together with information noting the number of the certificate issued, the identity of the owner operator that purchased the number certificate of number, the owner's operator's designated county use area and the type of machine to which the owner operator will affix the certificate of number, e.g., including a motorbike, all-terrain vehicle, utility type vehicle ATV of fifty (50) inches in width or less, ATV over fifty (50) inches in width, UTV of fifty (50) inches in width, UTV over fifty (50) in width, or specialty off-highway vehicle. The foregoing shall not prohibit the department from collecting such further information as it may deem necessary or helpful to its administrative duties under this chapter.~~

(2) At the time of sale from any dealer, each motorbike, all-terrain vehicle or utility type vehicle sold to an Idaho resident, but excluding those vehicles to be used exclusively on private land for agricultural use or used exclusively for snow removal purposes as provided in section 49-426(2), Idaho Code, must obtain a number certificate of number.

(a3) Application blanks forms and validation stickers shall be supplied by the department and the validation sticker shall be issued to the person making application for number a certificate of number.

~~(b) All number certificates that are issued shall be in force through December 31 of the issued year. All number certificates shall be renewed by the owner of the all-terrain vehicle, motorbike, specialty off-highway vehicle or utility type vehicle in the same manner provided for in the initial securing of the same or with any vendor authorized by the department. A vendor issuing a renewal number certificate shall retain a one dollar and fifty cent (\$1.50) vendor fee and remit the remainder of the twelve dollar (\$12.00) renewal number certificate fee to the department together with information noting the number of the certificate issued, the identity of the owner that purchased the number certificate, the owner's designated county use area, and the type of machine to which the owner will affix the validation stickers, e.g., motorbike, all-terrain vehicle, utility type vehicle or specialty off-highway vehicle. The foregoing shall not prohibit the department from collecting such additional information as it may deem necessary or helpful to its administrative duties under this chapter.~~

(e4) The issued validation sticker shall be placed upon the restricted vehicle license plate of the ~~all-terrain vehicle, motorbike or utility type vehicle~~ OHV, or upon the right fork of a vehicle registered pursuant to section 49-402(3), Idaho Code, or of a motorbike if used exclusively off-highway, or upon the rear fender of an ~~all-terrain vehicle, specialty off-highway vehicle or utility type vehicle~~ the OHV if used exclusively off-highway. The placement shall be made in such a manner that it is completely visible, does not cover the license plate numbers or letters, if licensed, and shall be kept in a legible condition at all times.

(35) For operation of a motorbike that meets the requirements specified in section 49-114(10), Idaho Code, on the public highways, the vehicle shall also be registered pursuant to the provisions of section 49-402(3), Idaho Code. A motorbike that meets the requirements specified in section 49-114(10), Idaho Code, and that is registered pursuant to section 49-402(3), Idaho Code, shall not be required to obtain a restricted license plate pursuant to section 49-402(4), Idaho Code. A motorbike, all-terrain vehicle, specialty off-highway vehicle or utility type vehicle operated exclusively off-highway or on highways located on state lands or federal lands ~~which that~~ are not part of the highway system of the state of Idaho and that meet the registration requirements specified in this section shall not be required to obtain a restricted vehicle license plate pursuant to section 49-402(4), Idaho Code.

(46) Nonresidents shall be allowed to purchase a restricted vehicle license plate pursuant to section 49-402(4), Idaho Code, and/or a number certificate of number for an ~~all-terrain vehicle, motorbike or utility type vehicle~~ OHV.

(7) Certificates of number and restricted license plates as required by section 49-456, Idaho Code, may be purchased separately.

SECTION 16. That Section 67-7123, Idaho Code, be, and the same is hereby amended to read as follows:

67-7123. OFF-HIGHWAY VEHICLES -- TRANSFER OF NUMBER CERTIFICATES AND RESTRICTED VEHICLE LICENSE PLATE. The purchaser of an all-terrain vehicle, utility type vehicle or motorbike, which off-highway vehicle that has been previously issued a number certificate pursuant to section 67-7122, Idaho Code, and issued a restricted vehicle license plate pursuant to section 49-402, Idaho Code, shall within fifteen (15) days after acquiring same, make application to the county assessor or county motor vehicle office as may be designated by the county assessor for transfer to him of the number certificate and restricted vehicle license plate issued to the off-highway vehicle, giving the same information as on the original application and the number of the number certificate and restricted vehicle license plate, and shall at the same time pay a transfer fee of one dollar and fifty cents (\$1.50).

SECTION 17. That Section 67-7124, Idaho Code, be, and the same is hereby amended to read as follows:

67-7124. OFF-HIGHWAY VEHICLES -- NONRESIDENT -- OFF-HIGHWAY VEHICLE USER CERTIFICATE REQUIRED. (1) ~~As of January 1, 2020, b~~Before operating within Idaho, any nonresident owner or applicant operator of a noncommercial off-highway vehicle shall be required to obtain a nonresident off-highway vehicle (OHV) user certificate. A fee of twelve dollars (\$12.00) shall be imposed for the issuance of a nonresident OHV user certificate. The validation sticker shall be displayed in the same manner as provided in section 67-7122, Idaho Code. Nonresident OHV user certificates shall be valid January 1 through December 31. Issuance and administration of nonresident OHV user certificates shall be conducted in the same manner as provided in section 67-7122, Idaho Code, for numbering off-highway vehicles.

(2) For purposes of this section, "nonresident" shall be as defined in section 36-202, Idaho Code.

(3) Nonresidents shall be allowed to purchase a restricted vehicle license plate pursuant to section 49-402(4), Idaho Code.

SECTION 18. That Section 67-7125, Idaho Code, be, and the same is hereby amended to read as follows:

67-7125. OFF-HIGHWAY VEHICLES -- NOISE ABATEMENT. (1) Except as hereinafter provided, every vehicle subject to numbering under sections 67-7122 and 67-7124, Idaho Code, shall comply with the provisions of this section. Every vehicle subject to the provisions of this section shall at all times be equipped with an exhaust system in good working order and in constant operation. If the vehicle was originally equipped with a noise suppressing system or if the vehicle is required by law or regulation of this state or the federal government to have a noise suppressing system, that system shall be maintained in good working order. No person shall disconnect, modify or alter any part of that system in any manner which that will amplify or increase the vehicle's noise emission above the noise limits established in subsection (3) of this section, except temporarily in order to make repairs, replacements or adjustments. No person shall operate and no owner shall cause or permit to be operated any vehicle while the vehicle's noise emission exceeds the noise limits established in subsection (3) of this section or while the vehicle's noise suppressing system is disconnected, modified or altered in violation of the provisions of this section.

(2) No person shall operate a vehicle subject to the provisions of this section unless that vehicle is equipped with a spark arrester device affixed to the exhaust system of a type qualified and rated by the United States forest service. The provisions of this subsection shall not apply to vehicles being operated off the highway in an organized racing or competitive event which is conducted on private land with the consent of the landowner.

(3) Any vehicle subject to the provisions of this section shall at all times be equipped with a noise suppressing system or other device which that limits noise emission to a base level of not more than ninety-six (96) decibels when measured on the "A" scale using standards and procedures established by the society of automotive engineers (SAE), specifically SAE standard J1287, June, 1988, describing a test of a stationary vehicle with sound measured twenty (20) inches and forty-five (45) degrees from the exhaust outlet, or as otherwise described. The provisions of this subsection shall not apply to vehicles being operated off the highway in an organized racing or competitive event which is conducted on private land with the consent of the landowner or on public land under permit.

(a) The department shall adopt regulations in accordance with chapter 52, title 67, Idaho Code, establishing the test procedures and instrumentation to be utilized. These procedures shall incorporate requirements for the test site environment and sound measuring equipment as set forth in SAE standard J1287, June, 1988.

(b) Instrumentation shall include but not be limited to a sound level meter meeting the type 1, type S1A, type 2, or type S2A requirements of the American national standards institute (ANSI) specification for sound level meters, S1.4-1983; a sound level calibrator, microphone wind screen, external engine speed tachometer.

(4) A showing that the noise emission level of any vehicle subject to and not otherwise exempt from the provisions of this section exceeds ninety-six (96) decibels, as described and tested in subsection (3) of this section, shall be prima facie evidence of a violation of subsection (1) of this section.

SECTION 19. That Section 67-7126, Idaho Code, be, and the same is hereby amended to read as follows:

67-7126. OFF-HIGHWAY VEHICLES -- ESTABLISHMENT OF ACCOUNT -- DISTRIBUTION OF FEES. There is hereby established in the state treasurer's office an account to be known and designated as the "~~motorbike~~OHV recreation account." The fee of twelve dollars (\$12.00) fee collected for off-highway vehicle ~~number~~ certificates of number and nonresident user certificates under the provisions of sections 67-7122 and 67-7124, Idaho Code, shall be allocated as follows:

(1) Vendors shall charge and retain one dollar and fifty cents (\$1.50) for a handling fee;

(2) Up to fifteen percent (15%) shall be allotted to the department for administration and for the production of number certificates and validation stickers, which moneys shall be placed in the motorbike recreation account. The department shall annually publish a report specifically identifying the uses of account moneys of the revenue generated from OHV certificates may be used by the department to defray administrative costs and the production of certificates of number, nonresident user certificates, and validation stickers. Any moneys unused at the end of the fiscal year shall be returned to the Idaho state treasurer for deposit in the OHV recreation account;

(3) One dollar (\$1.00) shall be deposited into the off-highway vehicle law enforcement fund. Moneys in said fund shall be paid and used as follows:

(a) Sheriffs of counties with a current or an actively developing off-highway vehicle law enforcement program recognized by the department shall receive moneys from the fund based upon a formula as provided in rule promulgated by the board; and

(b) Moneys from the fund shall be used only for off-highway-related law enforcement activities; and

(4) One dollar (\$1.00) shall be allocated to the Idaho department of lands to provide off-highway vehicle opportunities and to repair damage directly related to off-highway vehicle use. The department of lands shall annually publish a report specifically identifying the uses of moneys allocated pursuant to this subsection; and

(5) The remaining funds shall be transmitted to the state treasurer's office for deposit to the credit of the ~~motorbike~~ OHV recreation account, all such moneys to be transmitted to the state treasurer on or before the tenth day of each month.

The department shall annually publish a report specifically identifying the use of revenues generated from OHV certificates of number and nonresident user certificates. Collection of fees for off-highway vehicle ~~number certificates of number and nonresident user certificates~~ shall not impose any additional liability on the state of Idaho or any of its political subdivisions or upon the employees of the state and of its political subdivisions, and those entities and persons shall retain the limitations of liability provided by section 36-1604, Idaho Code, regardless of the use of such fees.

SECTION 20. That Section 67-7127, Idaho Code, be, and the same is hereby amended to read as follows:

67-7127. OFF-HIGHWAY VEHICLES -- USE OF MONEYS IN ACCOUNT. The board shall administer the ~~motorbike~~ OHV 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 public recreational off-highway vehicle activity;

(2) For the securing, maintenance, construction or development of trails and other public recreational facilities for off-highway vehicle use on private, state, and federal lands;

(3) To finance the formulation and implementation under the board's direction of an off-the-road rider education program; and

(4) To acquire applicable federal matching funds.

SECTION 21. That Chapter 71, 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 67-7130, Idaho Code, and to read as follows:

67-7130. MULTIPLE YEAR CERTIFICATES. On or before November 1, 2021, the department shall make available to Idaho residents the option to purchase certificates of number for OHVs and snowmobiles that are valid for multiple, consecutive seasons. The fee shall be multiplied by the number of seasons that the certificate of number is valid, except that portion of the fee for vendors shall be the same regardless of the duration of the certificate purchased by the operator; for example, a vendor fee for a two (2) season OHV certificate of number would be one dollar and fifty cents (\$1.50).

SECTION 22. That Chapter 71, 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 67-7131, Idaho Code, and to read as follows:

67-7131. VOLUNTARY DONATIONS TO ACCOUNTS. (1) An applicant for a certificate of number or nonresident user certificate for a snowmobile, pursuant to sections 67-7103 and 67-7104, Idaho Code, who makes application for the same directly from the department, and not through a vendor, may make a voluntary donation to support the state snowmobile fund pursuant to section 67-7106, Idaho Code, in conjunction with the application for certificate. The department shall include an accommodation to notify an applicant of the opportunity and to allow an applicant to designate such a donation and shall transfer all such funds received to the state snowmobile fund pursuant to section 67-7106, Idaho Code, at least monthly. None of the proceeds from voluntary donations pursuant to this section shall be used for administrative expenses of the department.

(2) An applicant for a certificate of number or nonresident user certificate for an off-highway vehicle pursuant to sections 67-7122 and 67-7124, Idaho Code, who makes application for the same directly from the department, and not through a vendor, may make a voluntary donation to support the OHV recreation account as established by section 67-7126, Idaho Code, in conjunction with the application for certificate. The department shall include an accommodation to notify an applicant of the opportunity and to allow an applicant to designate such a donation and shall transfer all such funds received to the OHV recreation account as established by section 67-7126, Idaho Code, at least monthly. None of the proceeds from voluntary donations pursuant to this section shall be used for administrative expenses of the department.

(3) The department may charge a convenience fee for any voluntary donation received pursuant to this section to offset any credit card processing fees or other bank fees associated with processing or receiving a voluntary donation.

SECTION 23. That Section 67-7132, Idaho Code, be, and the same is hereby amended to read as follows:

67-7132. RULES AND REGULATIONS. The ~~director~~ board shall adopt and enforce administrative rules and regulations under the provisions of chapter 52, title 67, Idaho Code, as necessary to carry out the provisions of this chapter. Nothing in this chapter shall be construed or interpreted to require the department to validate ownership of OHVs and snowmobiles or to validate or issue certificates of number to be assigned to specifically identifiable OHVs or snowmobiles. The department shall not be required to issue certificates of number to OHVs or snowmobiles by specific reference or to issue by a vehicle identification number, title number, or the like.

SECTION 24. 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~~ board 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.

SECTION 25. That Section 19-4705, Idaho Code, be, and the same is hereby amended to read as follows:

19-4705. PAYMENT OF FINES AND FORFEITURES -- SATISFACTION OF JUDGMENT -- DISPOSITION -- APPORTIONMENT. (1) Except as otherwise provided in subsection (2) of this section:

(a) All fines and forfeitures collected pursuant to the judgment of any court of the state shall be remitted to the court in which the judgment was rendered. The judgment shall then be satisfied by entry in the docket of the court. The clerk of the court shall daily remit all fines and forfeitures to the county auditor who shall at the end of each month apportion the proceeds according to the provisions of this chapter. Other existing laws regarding the disposition of fines and forfeitures are hereby repealed to the extent such laws are inconsistent with the provisions of this chapter except as provided in section 49-1013(5), Idaho Code.

(b) Fines and forfeitures remitted for violations of fish and game laws shall be apportioned two and one-half percent (2 1/2%) to the state treasurer for deposit in the state general fund, ten percent (10%) to the search and rescue account, twenty-two and one-half percent (22 1/2%) to the district court fund and sixty-five percent (65%) to the fish and game fund account.

(c) Fines and forfeitures remitted for violations of state motor vehicle laws, for violation of state driving privilege laws, and for violation of state laws prohibiting driving while under the influence of alcohol, drugs or any other intoxicating substances, shall be apportioned ten percent (10%) to the state treasurer, of which eighty-six percent (86%) shall be deposited to the state general fund and fourteen percent (14%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, forty-five percent (45%) to the state treasurer for deposit in the highway distribution account, twenty-two and one-half percent (22 1/2%) to the district court fund and twenty-two and one-half percent (22 1/2%) to the state treasurer for deposit in the public school income fund; provided, however, that fines and forfeitures remitted for violation of state motor vehicle laws, for violation of state driving privilege laws, and for violation of state laws prohibiting driving while under the influence of alcohol, drugs or any other intoxicating substances, where an arrest is made or a citation is issued by a city law enforcement official, or by a law enforcement official of a governmental agency under contract to provide law enforcement services for a city, shall be apportioned ten percent (10%) to the state treasurer, of which eighty-six percent (86%) shall be deposited to the state general fund and fourteen percent (14%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, and ninety percent (90%) to the city whose officer made the arrest or issued the citation.

(d) Fines and forfeitures remitted for violation of any state law not involving fish and game laws, or motor vehicle laws, or state driving privilege laws, or state laws prohibiting driving while under the influence of alcohol, drugs or any other intoxicating substances, shall be apportioned ten percent (10%) to the state treasurer, of which eighty-six percent (86%) shall be deposited to the state general fund and fourteen percent (14%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, and ninety percent (90%) to the district court fund of the county in which the violation occurred.

(e) Fines and forfeitures remitted for violation of county ordinances shall be apportioned ten percent (10%) to the state treasurer, of which eighty-six percent (86%) shall be deposited to the state general fund

and fourteen percent (14%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, and ninety percent (90%) to the district court fund of the county whose ordinance was violated.

(f) Fines and forfeitures remitted for violation of city ordinances shall be apportioned ten percent (10%) to the state treasurer, of which eighty-six percent (86%) shall be deposited to the state general fund and fourteen percent (14%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, and ninety percent (90%) to the city whose ordinance was violated.

(g) Fines and forfeitures remitted for violations not specified in this chapter shall be apportioned ten percent (10%) to the state treasurer, of which eighty-six percent (86%) shall be deposited to the state general fund and fourteen percent (14%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, and ninety percent (90%) to the district court fund of the county in which the violation occurred except in cases where a duly designated officer of any city police department or city law enforcement official shall have made the arrest for any such violation, in which case ninety percent (90%) shall be apportioned to the city whose officer made the arrest.

(h) Fines and forfeitures remitted for violations involving ~~registrations of motorcycles or motor-driven cycles used off highways, snowmobiles, or use of winter recreation parking areas~~ any of the provisions of chapter 71, title 67, Idaho Code, shall be apportioned ten percent (10%) to the state treasurer, of which eighty-six percent (86%) shall be deposited to the state general fund and fourteen percent (14%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, and ninety percent (90%) to the general fund of the county or city whose law enforcement official issued the citation.

(i) Fines and forfeitures remitted for violations of overweight laws as provided in section 49-1013(3), Idaho Code, shall be deposited one hundred percent (100%) into the highway distribution account.

(j) Fines remitted for violations of section 18-7008, Idaho Code, shall be apportioned ten percent (10%) to the district court fund, sixty-five percent (65%) to the county where the trespass occurred for appropriation to the sheriff's office, and twenty-five percent (25%) to the Idaho rangeland resources commission for expanded education programs regarding private property rights and land user responsibility.

(2) Any fine or forfeiture remitted for any misdemeanor violation for which an increase in the maximum fine became effective on or after July 1, 2005, shall be apportioned as follows:

(a) Any funds remitted, up to the maximum amount that could have been imposed before July 1, 2005, as a fine for the misdemeanor violation, shall be apportioned according to the applicable provisions of subsection (1) of this section; and

(b) Any other funds remitted, in excess of the maximum amount that could have been imposed before July 1, 2005, as a fine for the misdemeanor violation, shall be remitted to the state treasurer and shall be deposited in the drug court, mental health court and family court services fund as set forth in section 1-1625, Idaho Code.

(3) As used in this section, the term "city law enforcement official" shall include an official of any governmental agency which is providing law enforcement services to a city in accordance with the terms of a contract or agreement, when such official makes the arrest or issues a citation within the geographical limits of the city and when the contract or agreement provides for payment to the city of fines and forfeitures resulting from such service.

SECTION 26. 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 that 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 certificate of number fee specified in section 67-7122, Idaho Code, shall be paid as provided in section 67-7122, Idaho Code. The registration certificate of number 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 section 49-426(2), Idaho Code. Nonresidents shall be allowed to purchase a restricted vehicle license plate and validation sticker pursuant to section 67-7124, Idaho Code, 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 that~~ 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 49-415D, 49-417, 49-417A, 49-417B, 49-417C, 49-417D, 49-418A, 49-418B, 49-418C, 49-419, 49-419A, 49-419C, 49-419E, 49-420, 49-420A, 49-420B, 49-420C, 49-420D, 49-420E, 49-420J, 49-420K, 49-420L, 49-420M, 49-420N, 49-420O, 49-420P, 49-420Q, and 49-420R, 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 27. That Section 49-426, Idaho Code, be, and the same is hereby amended to read as follows:

49-426. EXEMPTIONS FROM OPERATING FEES. The provisions of this chapter with respect to operating fees shall not apply to:

(1) Motor vehicles owned or leased by the United States, the state, a city, a county, any department thereof, any political subdivision or municipal corporation of the state, any taxing district of the state, any state registered nonprofit subscription fire protection unit, or any organization, whether incorporated or unincorporated, organized for the operation, maintenance, or management of an irrigation project or irrigation works or system or for the purpose of furnishing water to its members or shareholders, but in other respects shall be applicable.

(2) Farm tractors, implements of husbandry, those manufactured homes which qualify for an exemption under the provisions of section 49-422, Idaho Code, road rollers, wheel-mounted tar buckets, portable concrete and/or mortar mixers, wheel-mounted compressors, tow dollies, portable toilet trailers, street sweepers, other construction equipment, forestry equipment, lawn and grounds equipment and similar devices as determined by the department which are temporarily operated or moved upon the highways need not be registered under the provisions of this chapter, nor shall implements of husbandry be considered towed units under registration of vehicle combinations as defined in section 49-108(2), Idaho Code. In addition, self-propelled wheelchairs, three-wheeled bicycles, wheelchair conveyances, golf carts, lawn mowers, and scooters operated by persons who by reason of physical disability are otherwise unable to move about as pedestrians shall be exempt from registration requirements under the provisions of this chapter. Motorcycles, motorbikes, utility type vehicles and all-terrain vehicles need not be licensed under the provisions of this chapter or numbered pursuant to the provisions of section 67-7122, Idaho Code, if they are being used exclusively in connection with agricultural, horticultural, dairy and livestock growing and feeding operations or used exclusively for snow removal purposes. Travel upon the public highways shall be limited to travel between farm or ranch locations. Motorcycles, motorbikes, utility type vehicles and all-terrain vehicles used for this purpose shall meet the emblem requirements of section 49-619, Idaho Code.

(3) Any political subdivision of the state of Idaho may, but only after sufficient public notice is given and a public hearing held, adopt local ordinances or resolutions designating highways or sections of highways under its jurisdiction which are closed to all-terrain vehicles, utility type vehicles, specialty off-highway vehicles and motorbikes licensed pursuant to this chapter and numbered pursuant to section 67-7122, Idaho Code. The operation of licensed and numbered all-terrain vehicles, utility type vehicles and motorbikes and those vehicles exempt from licensing and numbering pursuant to subsection (2) of this section shall not be permitted on controlled-access highways, except as provided in subsection (4) of this section. The requirements of title 18 and chapters 2, 3, 6, 8, 12, 13 and 14, title 49, Idaho Code, shall apply to the operation of any all-terrain vehicle, utility type vehicle or motorbike upon highways. Costs related to the posting of signs on highways or sections of highways that are closed to such vehicles, indicating the ordinance, are eligible for reimbursement through the ~~motorbike~~ OHV recreation account created in section 67-7126, Idaho Code.

(4) The Idaho transportation board may designate sections of state highways upon which all-terrain vehicles, utility type vehicles, specialty off-highway vehicles and motorbikes may travel. All-terrain vehicles, utility type vehicles, specialty off-highway vehicles and motorbikes shall be permitted to cross a non-full-access-controlled highway at a public road intersection. All-terrain vehicles, utility type vehicles, specialty off-highway vehicles and motorbikes shall be permitted to travel upon that

portion of any non-full-access-controlled state highway with a speed limit of forty-five (45) miles per hour or less lying within and extending one (1) mile beyond the boundaries of a municipality unless restricted by the Idaho transportation board or closed as provided in subsection (3) of this section. The requirements of title 18 and chapters 2, 3, 6, 8, 12, 13 and 14, title 49, Idaho Code, shall apply to the operation of all-terrain vehicles, utility type vehicles, specialty off-highway vehicles and motorbikes when upon state highways.

(5) All-terrain vehicles, utility type vehicles, specialty off-highway vehicles and motorbikes may be used on highways located on state lands or federal lands which are not part of the highway system of the state of Idaho, provided the numbering requirements of section 67-7122, Idaho Code, are met.

SECTION 28. That Section 49-428, Idaho Code, be, and the same is hereby amended to read as follows:

49-428. DISPLAY OF PLATE AND STICKERS. (1) License plates assigned to a motor vehicle shall be attached, one (1) in the front and the other in the rear, with the exception of the following:

(a) The license plate assigned to a motorcycle, all-terrain vehicle, utility type vehicle, motorbike or semitrailer and the license plate assigned to a motor vehicle operated by a manufacturer, repossession agent or dealer shall be attached to the rear.

(b) Vehicles displaying year of manufacture, old timer, classic car or street rod license plates shall be allowed to display one (1) plate attached to the rear of the vehicle.

(c) The license plate attached to a tractor shall be attached to the front.

(d) The wrecker plate shall be displayed on the vehicle being towed in such a manner as to be visible when the vehicle being towed is approached from the rear.

License plates shall be displayed during the current registration year. The annual registration sticker for the current registration year shall be displayed on each license plate, except for trailers, semitrailers, and commercial vehicles over twenty-six thousand (26,000) pounds under the provisions of sections 49-434 and 49-435, Idaho Code. For the purposes of this title, the license plates together with the registration stickers shall be considered as license plates for the year designated on the registration sticker. For purposes of this chapter, a validation sticker issued to the operator of an all-terrain vehicle, utility type vehicle, or motorbike under the provisions of sections 67-7122 and 67-7124, Idaho Code, shall be considered the registration sticker.

(2) Every license plate shall at all times be securely fastened to the vehicle to which it is assigned to prevent the plate from swinging, be at a height not less than twelve (12) inches from the ground, measuring from the bottom of the plate, be in a place and position to be clearly visible, and shall be maintained free from foreign materials and in a condition to be clearly legible, and all registration stickers shall be securely attached to the license plates and shall be displayed as provided in section 49-443(4), Idaho Code.

SECTION 29. That Section 49-456, Idaho Code, be, and the same is hereby amended to read as follows:

49-456. VIOLATIONS OF REGISTRATION PROVISIONS. It shall be unlawful for any person:

(1) To operate or for the owner to permit the operation upon a highway of any motor vehicle, trailer or semitrailer which that is not registered and which that does not have attached and displayed the license plates assigned

to it for the current registration year, subject to the exemptions allowed in sections 49-426, 49-431 and 49-432, Idaho Code.

(2) To operate or for the owner to permit the operation on state and federal lands or upon highways, or sections of highways, as permitted under section 49-426(3) and (4), Idaho Code, any all-terrain vehicle, utility type vehicle or motorbike that does not have a valid and properly displayed restricted license plate issued pursuant to this chapter and attached registration validation sticker issued pursuant to section 67-7122 or 67-7124, Idaho Code, subject to the exemptions allowed in section 49-426(2), Idaho Code.

(3) To display or cause or permit to be displayed, or to have in possession, any registration card or license plate knowing the same to be fictitious or to have been canceled, revoked, suspended or altered.

(4) To lend or knowingly permit the use by one not entitled to any registration card or license plate issued to the person so lending or permitting that use.

(5) To fail or refuse to surrender to the department, upon demand, any registration card or license plate which that has been suspended, canceled or revoked.

(6) To use a false or fictitious name or address in any application for the registration of any vehicle, or for any renewal or duplicate, or knowingly to make a false statement or conceal a material fact or otherwise commit a fraud in any application.

SECTION 30. That Section 49-504, Idaho Code, be, and the same is hereby amended to read as follows:

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

this chapter. The department may promulgate rules to provide for exceptions to the odometer requirement. Social security numbers collected shall not appear on certificates of title and all applications on file shall be exempt from disclosure, except as provided in sections 49-202, 49-203 and 49-203A, Idaho Code.

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

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

(4) The department shall retain the evidence of title presented by the applicant and on which the certificate of title is issued. The department shall maintain an identification numbers index of registered vehicles, except that said index is not required to include operators who have been issued a certificate of number or nonresident user certificate pursuant to sections 67-7122 and 67-7124, Idaho Code, and upon receiving an application for a certificate of title, shall first check the identification number shown in the application against the index. The department, when satisfied that the applicant is the owner of the vehicle and that the application is in proper form, shall issue in the name of the owner of the vehicle a certificate of title bearing a title number, the date issued and a description of the vehicle as determined by the department, together with a statement of the owner's title and of all liens or encumbrances upon the vehicle, and whether possession is held by the owner under a lease, contract or conditional sale, or other like agreement.

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

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

of time specified in the permit. A laden commercial vehicle or vehicle combination may also operate without license plates for the period of time specified in the temporary permit, provided that the owner or operator has also obtained a permit issued under the provisions of section 49-432, Idaho Code.

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

Approved April 9, 2021

CHAPTER 150
(H.B. No. 104)

AN ACT

RELATING TO CAMPAIGN FINANCE; AMENDING SECTION 67-6611, IDAHO CODE, TO REQUIRE CERTAIN INFORMATION REGARDING INDEPENDENT EXPENDITURE DISCLOSURES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-6611, Idaho Code, be, and the same is hereby amended to read as follows:

67-6611. INDEPENDENT EXPENDITURES. (1) Each person who makes independent expenditures in an aggregate amount exceeding one hundred dollars (\$100) in support of or in opposition to any one (1) candidate, political committee, or measure, shall file a statement of the expenditure with the secretary of state.

(2) Statements shall be filed with the secretary of state, not less than seven (7) days prior to the primary and general election and thirty (30) days after the primary and general election.

(3) The statement shall contain the following information:

(a) ~~the~~ The name and address of any person to whom an expenditure in excess of fifty dollars (\$50.00) has been made by any such person in support of or in opposition to any such candidate ~~or issue~~ or measure during the reporting period, together with the amount, date, and purpose of each such expenditure, including the identity of the candidate or measure, and whether the expenditure was made either in support of or in opposition to such candidate or measure; and

(b) ~~the~~ The total sum of all expenditures made in support of or in opposition to any such candidate or measure.

(4) In addition to the requirements set forth in subsections (1) and (2) of this section, each person who makes independent expenditures in an aggregate amount of one thousand dollars (\$1,000) or more after the sixteenth day before, but more than forty-eight (48) hours before, any primary or general election, shall file a written statement of the expenditure with the secretary of state not more than forty-eight (48) hours from the time of such expenditure. The statement shall include the information required in subsection (3) of this section.

Approved April 9, 2021

CHAPTER 151
(H.B. No. 326)

AN ACT

RELATING TO THE APPROPRIATION TO THE IDAHO TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 2022; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING A CONTINUOUS APPROPRIATION; PROVIDING REAPPROPRIATION AUTHORITY FOR THE CAPITAL FACILITIES PROGRAM; PROVIDING REAPPROPRIATION AUTHORITY FOR THE STATE HIGHWAY FUND, STRATEGIC INITIATIVES PROGRAM FUND, AND TRANSPORTATION EXPANSION AND CONGESTION MITIGATION FUND; PROVIDING REAPPROPRIATION AUTHORITY FOR AIRPORT DEVELOPMENT GRANTS; AUTHORIZING A TRANSFER OF FUNDS FOR BOND PAYMENTS; AND AUTHORIZING A PRIOR PERIOD ADJUSTMENT.

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

SECTION 1. There is hereby appropriated to the Idaho Transportation Department the following amounts to be expended according to the designated programs and expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. TRANSPORTATION SERVICES:					
A. ADMINISTRATION:					
FROM:					
State Highway (Dedicated)					
Fund	\$17,872,700	\$8,982,000	\$2,678,700		\$29,533,400
State Highway (Federal)					
Fund	<u>435,400</u>	<u>319,100</u>	<u>0</u>	<u>\$340,000</u>	<u>1,094,500</u>
TOTAL	\$18,308,100	\$9,301,100	\$2,678,700	\$340,000	\$30,627,900
B. CAPITAL FACILITIES:					
FROM:					
State Aeronautics (Dedicated)					
Fund			\$50,000		\$50,000
State Highway (Dedicated)					
Fund		<u>\$300,000</u>	<u>3,265,000</u>		<u>3,565,000</u>
TOTAL		\$300,000	\$3,315,000		\$3,615,000
C. AERONAUTICS:					
FROM:					
State Aeronautics (Dedicated)					
Fund	\$1,107,600	\$491,300	\$109,400	\$3,000,000	\$4,708,300
State Aeronautics (Billing)					
Fund	116,500	138,400			254,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
State Highway (Dedicated)					
Fund			13,900		13,900
State Aeronautics (Federal)					
Fund	<u>97,300</u>	<u>573,200</u>	<u>0</u>	<u>0</u>	<u>670,500</u>
TOTAL	\$1,321,400	\$1,202,900	\$123,300	\$3,000,000	\$5,647,600
DIVISION					
TOTAL	\$19,629,500	\$10,804,000	\$6,117,000	\$3,340,000	\$39,890,500
II. MOTOR VEHICLES:					
FROM:					
State Highway (Dedicated)					
Fund	\$16,485,100	\$18,184,100	\$814,900		\$35,484,100
State Highway (Federal)					
Fund	<u>0</u>	<u>3,600,000</u>	<u>0</u>		<u>3,600,000</u>
TOTAL	\$16,485,100	\$21,784,100	\$814,900		\$39,084,100
III. HIGHWAY OPERATIONS:					
FROM:					
State Highway (Dedicated)					
Fund	\$88,468,700	\$59,027,200	\$24,306,900	\$462,000	\$172,264,800
State Highway (Local)					
Fund	244,100	73,900			318,000
State Highway (Federal)					
Fund	14,632,400	4,034,900		19,772,900	38,440,200
Federal COVID-19 Relief					
Fund	<u>0</u>	<u>0</u>	<u>0</u>	<u>9,000,000</u>	<u>9,000,000</u>
TOTAL	\$103,345,200	\$63,136,000	\$24,306,900	\$29,234,900	\$220,023,000
IV. CONTRACT CONSTRUCTION & RIGHT-OF-WAY ACQUISITION:					
FROM:					
State Highway (Dedicated)					
Fund		\$2,500,000	\$112,447,700	\$500,000	\$115,447,700
State Highway (Local)					
Fund		100,000	5,805,300	100,000	6,005,300
Transportation Expansion and Congestion Mitigation					
Fund			22,273,800		22,273,800
Strategic Initiatives Program - Dedicated					
Fund			58,670,000		58,670,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
State Highway (Federal)					
Fund		8,000,000	233,428,200	2,899,800	244,328,000
State Highway (COVID Relief)					
Fund		<u>0</u>	<u>67,451,700</u>	<u>0</u>	<u>67,451,700</u>
TOTAL		\$10,600,000	\$500,076,700	\$3,499,800	\$514,176,500
GRAND TOTAL	\$139,459,800	\$106,324,100	\$531,315,500	\$36,074,700	\$813,174,100

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Idaho Transportation Department is authorized no more than one thousand six hundred forty-eight (1,648.00) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. CONTINUOUSLY APPROPRIATED MONEYS. All moneys transferred to the Local Bridge Inspection Fund and to the Railroad Grade Crossing Protection Fund, as provided in Section 63-2412, Idaho Code, are hereby continuously appropriated to the Idaho Transportation Department for the stated purpose of those funds.

SECTION 4. REAPPROPRIATION AUTHORITY FOR THE CAPITAL FACILITIES PROGRAM. There is hereby reappropriated to the Idaho Transportation Department any unexpended and unencumbered balances appropriated or reappropriated to the Idaho Transportation Department from the State Highway Fund and the State Aeronautics (Dedicated) Fund in the Capital Facilities Program for fiscal year 2021 to be used for nonrecurring expenditures for the Capital Facilities Program for the period July 1, 2021, through June 30, 2022. The Office of the State Controller shall confirm the reappropriation amount, by fund, expense class, and program, with the Legislative Services Office prior to processing the reappropriation authorized herein.

SECTION 5. REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Idaho Transportation Department any unexpended and unencumbered balances appropriated or reappropriated to the Idaho Transportation Department from the State Highway Fund, Strategic Initiatives Program Fund, and the Transportation Expansion and Congestion Mitigation Fund for the Contract Construction and Right-of-Way Acquisition Division for fiscal year 2021, in a total amount not to exceed \$250,000,000, to be used for nonrecurring expenditures for the Contract Construction and Right-of-Way Acquisition Division for the period July 1, 2021, through June 30, 2022. The Office of the State Controller shall confirm the reappropriation amount, by fund, expense class, and program, with the Legislative Services Office prior to processing the reappropriation authorized herein.

SECTION 6. REAPPROPRIATION AUTHORITY FOR AIRPORT DEVELOPMENT GRANTS. There is hereby reappropriated to the Idaho Transportation Department any unexpended and unencumbered balances appropriated or reappropriated to the Idaho Transportation Department from the State Aeronautics Fund as trustee and benefit payments for Airport Development Grants for fiscal year 2021 to be used for nonrecurring expenditures related to Airport Development Grants for the period July 1, 2021, through June 30, 2022. The Office of the

State Controller shall confirm the reappropriation amount, by fund, expense class, and program, with the Legislative Services Office prior to processing the reappropriation authorized herein.

SECTION 7. BOND PAYMENT AUTHORIZATION. The federal GARVEE bond payment for fiscal year 2022 is approximately \$65,800,000. It is hereby appropriated and the Idaho Transportation Board is hereby authorized to transfer up to \$4,800,000 from within the State Highway (Dedicated) Fund to the GARVEE Debt Service Fund to pay the state match as required for federal funds committed to pay the annual scheduled debt service for fiscal year 2022.

SECTION 8. LEGISLATIVE AUTHORIZATION FOR PRIOR PERIOD ADJUSTMENT. Pursuant to Section 67-3604, Idaho Code, the Idaho Transportation Department is hereby authorized, and the Office of the State Controller shall make, the necessary prior period adjustments not to exceed \$384,800 from the State Highway (Dedicated) Fund for transactions incorrectly recorded in fiscal year 2015.

Approved April 9, 2021

CHAPTER 152
(H.B. No. 333)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 2022; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; EXEMPTING THE APPROPRIATION FROM PROGRAM TRANSFER LIMITATIONS; AND PROVIDING REAPPROPRIATION AUTHORITY.

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, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT SERVICES:					
FROM:					
General					
Fund	\$399,200	\$320,400			\$719,600
Indirect Cost Recovery					
Fund	259,000	197,200			456,200
Parks and Recreation					
Fund	1,402,500	1,561,400	\$21,700	\$370,000	3,355,600
Recreational Fuels					
Fund	324,100	504,900		2,221,800	3,050,800
Parks and Recreation Registration					
Fund	343,700	145,100		8,650,000	9,138,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Miscellaneous Revenue					
Fund		15,600			15,600
Federal Grant					
Fund	<u>0</u>	<u>2,600</u>	<u>0</u>	<u>2,600,000</u>	<u>2,602,600</u>
TOTAL	\$2,728,500	\$2,747,200	\$21,700	\$13,841,800	\$19,339,200
II. PARK OPERATIONS:					
FROM:					
General					
Fund	\$2,180,300	\$588,700			\$2,769,000
Indirect Cost Recovery					
Fund		2,400			2,400
Parks and Recreation					
Fund	5,457,600	1,913,300	\$361,100		7,732,000
Recreational Fuels					
Fund	234,800	244,600	766,500		1,245,900
Parks and Recreation Registration					
Fund	1,017,500	1,081,300	115,600	\$200,000	2,414,400
Miscellaneous Revenue					
Fund	19,400	76,500			95,900
Public Recreation Enterprise					
Fund	815,300	1,329,000	45,000		2,189,300
Parks and Recreation Expendable Trust					
Fund	517,000	405,600			922,600
Federal Grant					
Fund	<u>1,089,400</u>	<u>628,600</u>	<u>0</u>	<u>1,227,500</u>	<u>2,945,500</u>
TOTAL	\$11,331,300	\$6,270,000	\$1,288,200	\$1,427,500	\$20,317,000
III. CAPITAL DEVELOPMENT:					
FROM:					
Recreational Fuels					
Fund			\$1,033,000		\$1,033,000
Parks and Recreation Registration					
Fund			3,552,000		3,552,000
Public Recreation Enterprise					
Fund			45,000		45,000
Federal Grant					
Fund			<u>2,500,000</u>		<u>2,500,000</u>
TOTAL			\$7,130,000		\$7,130,000
GRAND TOTAL	\$14,059,800	\$9,017,200	\$8,439,900	\$15,269,300	\$46,786,200

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-nine and thirty-nine hundredths (159.39) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, 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 the provisions of Section 67-3511(2), Idaho Code, trustee and benefit payments appropriated 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, 2021, through June 30, 2022. 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 2021 to be used for nonrecurring expenditures in the Capital Development Program for the period July 1, 2021, through June 30, 2022. The Office of the State Controller shall confirm the reappropriation amount, by fund, expense class, and program, with the Legislative Services Office prior to processing the reappropriation authorized herein.

Approved April 9, 2021

CHAPTER 153
(H.B. No. 334)

AN ACT

RELATING TO THE APPROPRIATION TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO FOR FISCAL YEAR 2022; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING CONTINUOUS APPROPRIATION AUTHORITY.

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 (PERSI) the following amounts to be expended according to the designated programs and expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. RETIREMENT ADMINISTRATION:				
FROM:				
PERSI Administrative				
Fund	\$5,098,300	\$2,616,200	\$274,500	\$7,989,000
Judges' Retirement				
Fund	<u>66,000</u>	<u>1,000</u>	<u>0</u>	<u>67,000</u>
TOTAL	\$5,164,300	\$2,617,200	\$274,500	\$8,056,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
II. PORTFOLIO INVESTMENT:				
FROM:				
PERSI Special				
Fund	\$847,800	\$221,600	\$18,000	\$1,087,400
GRAND TOTAL	\$6,012,100	\$2,838,800	\$292,500	\$9,143,400

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Public Employee Retirement System of Idaho is authorized no more than seventy-three (73.00) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. CONTINUOUS APPROPRIATION. Notwithstanding the provisions of Section 59-1311(4) (d), Idaho Code, moneys appropriated in Section 1 of this act for the Portfolio Investment Program are for administrative costs of the Portfolio Investment Program as provided in Section 59-1311(3), Idaho Code. Amounts necessary to pay all other investment expenses related to the Portfolio Investment Program are perpetually appropriated to the Public Employee Retirement System Board as provided in Section 59-1311(4) (a), (b), and (c), Idaho Code.

Approved April 9, 2021

CHAPTER 154
(S.B. No. 1137)

AN ACT

RELATING TO JUDGES; AMENDING SECTION 59-502, IDAHO CODE, TO REVISE THE SALARIES OF JUSTICES OF THE SUPREME COURT.

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

SECTION 1. That Section 59-502, Idaho Code, be, and the same is hereby amended to read as follows:

59-502. SALARIES OF JUDGES. (1) Commencing on July 1, 2020~~1~~, the salary of the justices of the supreme court shall be one hundred ~~fifty-seven~~ sixty thousand eight four hundred dollars (~~\$157,800~~160,400) per annum.

(2) Commencing on July 1, 2018, judges of the court of appeals shall receive an annual salary in an amount of ten thousand dollars (\$10,000) less than the annual salary of a supreme court justice.

(3) Commencing on July 1, 2017, district judges shall receive an annual salary in an amount of six thousand dollars (\$6,000) less than the annual salary of a judge of the court of appeals.

(4) Commencing on July 1, 2017, magistrate judges shall receive an annual salary in an amount of twelve thousand dollars (\$12,000) less than the annual salary of a district judge.

(5) Salaries shall be paid on regular pay periods not less frequently than monthly as determined by order of the supreme court as due out of the state treasury, but no justice of the supreme court or judge of the district court or magistrate shall be paid his salary, or any part thereof, unless he shall first take and subscribe an oath that there is not in his hands any matter in controversy not decided by him, which has been finally submitted for his consideration and determination thirty (30) days prior to his taking and subscribing said oath.

Approved April 12, 2021

CHAPTER 155
(S.B. No. 1164)

AN ACT

RELATING TO THE APPROPRIATION TO THE DIVISION OF HUMAN RESOURCES FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE DIVISION OF HUMAN RESOURCES FOR FISCAL YEAR 2022; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING REQUIREMENTS FOR THE IMPLEMENTATION OF 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 the following amounts to be expended according to the designated expense classes from the Division of Human Resources Fund for the period July 1, 2021, through June 30, 2022:

FOR:	
Personnel Costs	\$1,717,000
Operating Expenditures	<u>832,000</u>
TOTAL	\$2,549,000

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Division of Human Resources is authorized no more than seventeen (17.00) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EMPLOYEE COMPENSATION. In accordance with Chapter 53, Title 67, Idaho Code, the Division of Human Resources shall shift the salary structure upward by two percent (2%) beginning on July 1, 2021, with the exception of the minimum wage of \$7.25 per hour at pay grade D. The division shall also maintain the job classifications currently on payline exception.

Approved April 12, 2021

CHAPTER 156
(H.B. No. 182)

AN ACT

RELATING TO WATER; AMENDING CHAPTER 2, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-222B, IDAHO CODE, TO PROVIDE FOR IRRIGATION CORPORATION BOUNDARY ADJUSTMENTS.

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

SECTION 1. That Chapter 2, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-222B, Idaho Code, and to read as follows:

42-222B. IRRIGATION CORPORATION BOUNDARY ADJUSTMENTS. (1) A change to the generally described place of use of a water right held by any corporation organized for the operation, control, or management of an irrigation project or canal system may be made without applying for a change in use of the corporation's water right under the provisions of section 42-222, Idaho Code. The corporation must file with the department of water resources a map portraying the changes to the generally described place of use within which the corporation's water rights will be exercised. For this filing requirement, it is sufficient to provide a drawing on a seven-and-one-half (7.5) minute quadrangle map having a scale of one to twenty-four thousand (1:24,000) that shows the changes to the generally described place of use to include each quarter-quarter section within which irrigation occurs. The corporation may alternatively submit a digital file depicting a map that shows the boundaries of the generally described place of use, delineated at a minimum scale of one to twenty-four thousand (1:24,000), with a defined projection, and in a format that can be opened using standard geographic information system software and includes each quarter-quarter section within which irrigation occurs.

(2) The director shall review the change to the generally described place of use filed with the department to verify that it will not result in an increase in either the rate of flow diverted or in the total number of acres irrigated as authorized by the water right, shall not result in an enlargement of other water rights within the place of use of the corporation's water rights, and shall cause no injury to other water rights. Upon request from the director, the corporation shall submit information to support the director's inquiry regarding the review criteria.

(3) Following the director's review and approval or denial, if the holder of any water right or the corporation seeks to challenge the director's decision, the challenge may be commenced only by requesting a hearing pursuant to 42-1701A(3), title 42, Idaho Code, thereby initiating a contested case before the department, pursuant to the administrative procedures act, chapter 52, title 67, Idaho Code.

Approved April 9, 2021

CHAPTER 157
(H.B. No. 184)

AN ACT

RELATING TO WATER RIGHTS; AMENDING SECTION 42-248, IDAHO CODE, TO REVISE PROVISIONS REGARDING NOTIFICATION OF CHANGE IN OWNERSHIP OF WATER RIGHTS, TO PROVIDE THAT CERTAIN INFORMATION MAY BE RELIED ON BY THE DEPARTMENT OF WATER RESOURCES WHEN SENDING NOTICE, TO REVISE PROVISIONS REGARDING COMPLIANCE WITH SPECIFIED LAW, TO REVISE PROVISIONS REGARDING FEES, TO PROVIDE FOR CERTAIN EVIDENCE, TO PROVIDE FOR ACTION BY THE DEPARTMENT, TO PROVIDE THAT SPECIFIED ACTIONS ARE NOT SUBJECT TO CHALLENGE UNDER THE IDAHO ADMINISTRATIVE PROCEDURE ACT, AND TO PROVIDE FOR RESOLUTION OF DISPUTES; AND AMENDING SECTION 42-1409, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE MANNER OF NOTICE OF CHANGE OF OWNERSHIP.

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

SECTION 1. That Section 42-248, Idaho Code, be, and the same is hereby amended to read as follows:

42-248. NOTIFICATION OF CHANGE IN OWNERSHIP OF A WATER RIGHT OR CHANGE OF ADDRESS OF A WATER RIGHT OWNER -- NOTICE OF ACTION AFFECTING A WATER RIGHT. (1) All persons owning or claiming ownership of a right to use the water of this state, whether the right is represented by decree of the court, by claim to a water right filed with the department of water resources or by permit or license issued by the director of the department of water resources, shall provide notice to the department of water resources of any change in ownership of any part of the water right or of any change in the owner's mailing address, either of which occurs after June 30, 2000. Notice shall be provided within one hundred twenty (120) days of any change using forms acceptable to the director. Any notice received by the department of water resources more than one hundred twenty (120) days after the change in ownership or mailing address has occurred shall be accompanied by a late filing fee. The late filing fee shall be one hundred dollars (\$100). The director may waive the late filing fee or a portion thereof for good cause.

(2) All persons owning or claiming ownership of a right to use the water of this state that is evidenced by a water right recorded with the department of water resources prior to June 30, 2000, and for which a claim to water right, with current ownership and mailing address, is not on file with the department of water resources in the Snake River Basin Adjudication, Twin Falls Civil Case No. 39576, shall verify with the department that the ownership and mailing address information in the department's records is correct. Any incorrect ownership or mailing address shall be corrected by the owner or claimant of the water right by July 1, 2002, using forms acceptable to the director. Any mailing address or ownership corrections required by this subsection received by the department of water resources after July 1, 2002, shall be subject to the late filing fee described in subsection (1) of this section. The director may waive the late filing fee or a portion thereof for good cause.

(3) The director of the department of water resources will be deemed to have provided notice concerning any action by the director affecting a water right or claim if a notice of the action is mailed to the address and owner of the water right shown in the records of the department of water resources at the time of mailing the notice.

(2) The department may rely on the name and address of the owner of the water right shown in the records of the department when sending notice of any action related to that water right.

(43) Compliance with section 42-1409(6), Idaho Code, shall be deemed to be compliance with this section. The filing of an application to change a water right under the provisions of section 42-211 or section 42-222, Idaho Code, showing a change in address of the owner of the right or accompanied by evidence documenting any change in ownership of the water right, shall be deemed compliance with this section provided the requirements of subsections (5) and (6) of this section are met. The fee requirements of this subsection (4) of this section shall apply in addition to the filing fee that may be required in connection with an application to change a water right under the provisions of section 42-211 or 42-222, Idaho Code.

(54) A filing fee of twenty-five dollars (\$25.00) per right shall accompany a notice of change of water right ownership of a water right, provided that the fee shall be one hundred dollars (\$100) per right if a request is made to change the department's records to reflect a division in the ownership of the water right resulting from a division in the ownership of the place of use under the water right. No fee is required for a notice of change of ownership of a claim pending in a water rights adjudication. A notice of change of ownership of all or part of a water right not accompanied by the required filing fee is incomplete and shall be returned without processing to the person who submitted the notice.

(5) A notice of change of water right ownership of all or part of a water right shall be accompanied by deeds, court decrees, or other evidence showing the basis for the change in ownership, of conveyance of the water right and how the water right is divided if the change divides the water right among multiple owners.

(6) If the person filing the notice of a change of water right ownership does not own the land identified as the place of use for the water right, the notice shall be accompanied by evidence that written notice of the change of water right ownership has been mailed or hand-delivered to the landowner of record, as identified in the records of the county recorder.

(7) If the department receives the required notice, fee, and satisfactory evidence of conveyance of the water right as required in subsection (5) of this section, and evidence that the notice requirements of subsection (6) of this section, if applicable, have been met, the department shall update the ownership information in the water right records maintained by the department. If any required information is not provided, the department shall return the notice of change of ownership to the person filing the notice.

(8) Any action by the department updating the ownership of a water right in the department's records or returning the notice of change of ownership to the person filing the notice is not a determination of water right ownership, is not an administrative action subject to challenge under the Idaho administrative procedure act, chapter 52, title 67, Idaho Code, and is not subject to a request for hearing pursuant to section 42-1701A, Idaho Code. Water right ownership disputes arising from a notice of change of water right ownership under this section must be resolved either in a water rights adjudication or in an action to quiet title pursuant to section 6-401, Idaho Code.

(9) Any person having a security interest in a water right and desiring to be notified by the department regarding the filing of a change in ownership of that water right or of any proposed or final action to amend, transfer or otherwise modify that water right shall make the request upon a form provided by the department accompanied by a fee of twenty-five dollars (\$25.00) per right. The request shall be accompanied by evidence of the security interest including the expiration date of the security interest or other date defining the end of the period for which notification is requested. The request for notification shall expire at the end of the requested notification

period unless renewed on a form provided by the department and accompanied by a renewal fee of twenty-five dollars (\$25.00) per right. The holder of a security interest requesting notification under this subsection shall provide notice to the department within sixty (60) days if the security interest is terminated prior to the end of the requested notification period.

SECTION 2. That Section 42-1409, Idaho Code, be, and the same is hereby amended to read as follows:

42-1409. NOTICE OF CLAIM. (1) The director shall prepare and furnish on request a standard notice of claim form.

The notice of claim form shall include the following:

- (a) the name and address of the claimant;
- (b) the source of water;
- (c) the quantity of water claimed:
 - (i) the quantity of water claimed to be used for water rights acquired under state law shall describe the rate of diversion or, for an instream flow claim, a rate of water flow in cubic feet per second or the annual volume of diversion of water for use or storage in acre-feet per year, or both;
 - (ii) the quantity of water claimed for water rights established under federal law shall describe for each and every purpose the rate of present and future water diversion or, in the case of an instream flow claim the rate of flow in cubic feet per second or annual volume of present and future diversion in acre-feet per year or both;
- (d) the date of priority claimed:
 - (i) the date of priority claimed for water rights acquired under state law shall be from any license, permit, or decree; or if the right is not based upon a license, permit, or decree, then the date when the water was first applied to beneficial use;
 - (ii) the date of priority claimed for water rights established under federal law shall be determined in accordance with federal law;
- (e) the number thereof, if founded upon a right on file with the department; or if the right is founded upon judicial decree not on file with the department, then the title of the court and cause, number of the action and the date of entry;
- (f) the legal description of the existing point(s) of diversion; if the claim is for an instream flow, then a legal description of the beginning and ending points of the claimed instream flow;
- (g) the purpose(s) of use and the period of use:
 - (i) the purpose(s) of use for water rights acquired under state law shall describe each purpose of use and the period of the year when water is used for each purpose;
 - (ii) the purpose(s) of use for a water right established under federal law shall describe the purposes for which the water included in the claim is presently being used, if at all, and the period of the year when water is necessary for the designated purposes;
- (h) a legal description of the place of use:
 - (i) the legal description of the place of use for water rights acquired under state law shall describe the land where the water is beneficially used; if one (1) of the purposes of use is irrigation, then the number of irrigated acres within each forty (40) acre subdivision, except as provided in section 42-219, Idaho Code;

(ii) the legal description of the place of use for a water right established under federal law shall describe the federal reservation and the existing or proposed place of use for each consumptive use;

(i) the dates of any changes or enlargements in use for water rights acquired under state law, including the dimension of the diversion works as originally constructed and as enlarged;

(j) conditions on the exercise of any water right included in any decree, license, approved transfer application or other document; and

(k) such remarks and other matters as are necessary for definition of the right, for clarification of any element of a right or for administration of the right by the director.

(2) With respect to any water right for which a change was approved by the director pursuant to section 42-211 or 42-222, Idaho Code, after filing the notice of claim and prior to filing of the director's report, the claimant shall amend the notice of claim consistent with the determination of the director on the change.

(3) Each claimant, through submission of a claim, shall solemnly swear or affirm under penalty of perjury that the statements contained in the notice of claim or amended notice of claim are true and correct.

(4) All claimants of water rights that are included in a general adjudication shall file with the director a notice of claim for all water rights, except for those types of water rights designated in paragraphs (a) through (d) of subsection (1) of section 42-1420, Idaho Code.

(5) Any person who fails to submit a required notice of claim shall be deemed to have been constructively served with notice of a general adjudication by publication and mailing as required by section 42-1408, Idaho Code.

(6) Each purchaser of a water right from the water system shall inquire of the director whether a notice of claim has been filed, and if not, shall file a notice of claim in accordance with this section. All claimants and purchasers shall provide the director written notice of any change in ownership or of any change in mailing address during the pendency of a general adjudication. ~~All purchasers shall submit some evidence of ownership along with the notice of change of ownership in the manner prescribed in section 42-248, Idaho Code.~~

(7) At least one hundred twenty (120) days prior to filing of the director's report with the court, the director may notify each holder of a permit or license to appropriate water from the water system, for which proof of beneficial use was filed after entry of the court's order commencing a general adjudication, to file a notice of claim within thirty (30) days of mailing of the notice. The director shall notify the holder of the permit or license by certified mail at the most recent address shown in the records of the department.

(8) The district court or director may extend the time for filing a notice of claim.

Approved April 9, 2021

CHAPTER 158
(H.B. No. 185)

AN ACT

RELATING TO FLOOD CONTROL DISTRICTS; AMENDING SECTION 42-3129, IDAHO CODE, TO PROVIDE THAT LANDS PROPOSED TO BE ANNEXED TO A DISTRICT MAY BE CONTIGUOUS OR NONCONTIGUOUS TO THE EXISTING DISTRICT; AND AMENDING SECTION 42-3133, IDAHO CODE, TO PROVIDE THAT LANDS PROPOSED TO BE ANNEXED TO A DISTRICT MAY BE CONTIGUOUS OR NONCONTIGUOUS TO THE EXISTING DISTRICT AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 42-3129, Idaho Code, be, and the same is hereby amended to read as follows:

42-3129. PETITION FOR ANNEXATION OF LAND. The holder or holders of any title, or evidence of title, representing any body of lands, may file with the board of commissioners of a flood control district a petition in writing praying that said land may be annexed into the district. The lands proposed to be annexed to the district may be contiguous or noncontiguous to the existing boundaries of the district. The petition shall be submitted on a form provided by the district. The petition shall contain a legal description of the lands proposed to be annexed and any other information the district may require, and the petitioners shall state under oath that petitioners hold title to the lands. The board may require petitioners to advance to the district sufficient money to pay the district's estimated costs of proceedings on the petition.

SECTION 2. That Section 42-3133, Idaho Code, be, and the same is hereby amended to read as follows:

42-3133. ORDER REJECTING OR ACCEPTING PETITION. If the board of commissioners deems a proposed annexation not to be in the best interest of the district, the board shall reject the petition. If the board deems the proposed annexation in the best interest of the district, the board may order the lands identified in the petition or some part thereof be annexed into the district. The lands annexed to the district may be contiguous or noncontiguous to the existing boundaries of the district. The annexation order shall describe the lands to be annexed into the district, and the board may cause a survey thereof to be made if deemed necessary. Thereafter, the annexed land shall be included within the boundaries of the district and shall be subject to such assessments from time to time as the board levies pursuant to section 42-3115, Idaho Code. The board shall state in its minutes at its next regular meeting in which division in the district the annexed lands shall be included ~~in~~, and, if it deems necessary, the board shall make an order redividing the district into divisions, in the same manner and to like effect, as near as may be, as provided for that purpose on the formation of the district.

Approved April 9, 2021

CHAPTER 159
(H.B. No. 186)

AN ACT

RELATING TO WATER; AMENDING SECTION 42-1409, IDAHO CODE, TO REVISE PROVISIONS REGARDING NOTICES OF CLAIM ASSOCIATED WITH THE USE OF STOCKWATER ON FEDERAL LAND AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 42-1411, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE DIRECTOR'S DETERMINATION OF SPECIFIED ELEMENTS TO DEFINE AND ADMINISTER THE WATER RIGHTS ACQUIRED UNDER STATE LAW AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 42-1409, Idaho Code, be, and the same is hereby amended to read as follows:

42-1409. NOTICE OF CLAIM. (1) The director shall prepare and furnish on request a standard notice of claim form. The notice of claim form shall include the following:

- (a) ~~the~~ name and address of the claimant;
- (b) ~~the~~ source of water;
- (c) ~~the~~ quantity of water claimed:
 - (i) ~~the~~ quantity of water claimed to be used for water rights acquired under state law shall describe the rate of diversion or, for an instream flow claim, a rate of water flow in cubic feet per second or the annual volume of diversion of water for use or storage in acre-feet per year, or both;
 - (ii) ~~the~~ quantity of water claimed for water rights established under federal law shall describe for each and every purpose the rate of present and future water diversion or, in the case of an instream flow claim, the rate of flow in cubic feet per second or annual volume of present and future diversion in acre-feet per year, or both;
- (d) ~~the~~ date of priority claimed:
 - (i) ~~the~~ date of priority claimed for water rights acquired under state law shall be from any license, permit, or decree; or if the right is not based upon a license, permit, or decree, then the date when the water was first applied to beneficial use; provided, that for stockwater use on federal land, the claimant may claim the date of the first grazing permit issued on the federal grazing allotment, pursuant to federal grazing authorizations, including but not limited to the Taylor grazing act, as evidence of the date of priority, unless the claimant has evidence of earlier stockwater use on the federal land, which shall then establish the claimed date of priority;
 - (ii) ~~the~~ date of priority claimed for water rights established under federal law shall be determined in accordance with federal law;
- (e) ~~the~~ number thereof of claims, if founded upon a right on file with the department; or if the right is founded upon judicial decree not on file with the department, then the title of the court and cause, number of the action and the date of entry;
- (f) ~~the~~ legal description of the existing point(s) of diversion; if the claim is for an instream flow, then a legal description of the beginning and ending points of the claimed instream flow;

(g) ~~The~~ purpose(s) of use and the period of use:

(i) ~~The~~ purpose(s) of use for water rights acquired under state law shall describe each purpose of use and the period of the year when water is used for each purpose;

(ii) ~~The~~ purpose(s) of use for a water right established under federal law shall describe the purposes for which the water included in the claim is presently being used, if at all, and the period of the year when water is necessary for the designated purposes;

(h) a A legal description of the place of use:

(i) ~~The~~ legal description of the place of use for water rights acquired under state law shall describe the land where the water is beneficially used; if one (1) of the purposes of use is irrigation, then the number of irrigated acres within each forty (40) acre subdivision, except as provided in section 42-219, Idaho Code; if one (1) of the purposes of use is stockwater on federal land, then the federal grazing allotment name and managing federal agency and the legal description of the base property to which the water right is appurtenant;

(ii) ~~The~~ legal description of the place of use for a water right established under federal law shall describe the federal reservation and the existing or proposed place of use for each consumptive use;

(i) ~~The~~ dates of any changes or enlargements in use for water rights acquired under state law, including the dimension of the diversion works as originally constructed and as enlarged;

(j) ~~e~~Conditions on the exercise of any water right included in any decree, license, approved transfer application or other document; and

(k) ~~s~~Such remarks and other matters as are necessary for definition of the right, for clarification of any element of a right or for administration of the right by the director.

(2) With respect to any water right for which a change was approved by the director pursuant to section 42-211 or 42-222, Idaho Code, after filing the notice of claim and prior to filing of the director's report, the claimant shall amend the notice of claim consistent with the determination of the director on the change.

(3) Each claimant, through submission of a claim, shall solemnly swear or affirm under penalty of perjury that the statements contained in the notice of claim or amended notice of claim are true and correct.

(4) All claimants of water rights that are included in a general adjudication shall file with the director a notice of claim for all water rights, except for those types of water rights designated in paragraphs (a) through (d) of subsection (1) of section 42-1420, Idaho Code.

(5) Any person who fails to submit a required notice of claim shall be deemed to have been constructively served with notice of a general adjudication by publication and mailing as required by section 42-1408, Idaho Code.

(6) Each purchaser of a water right from the water system shall inquire of the director whether a notice of claim has been filed, and, if not, shall file a notice of claim in accordance with this section. All claimants and purchasers shall provide the director written notice of any change in ownership or of any change in mailing address during the pendency of a general adjudication. All purchasers shall submit some evidence of ownership along with the notice of change of ownership.

(7) At least one hundred twenty (120) days prior to filing of the director's report with the court, the director may notify each holder of a permit or license to appropriate water from the water system, for which proof of beneficial use was filed after entry of the court's order commencing a general adjudication, to file a notice of claim within thirty (30) days of mailing of the notice. The director shall notify the holder of the permit or license by certified mail at the most recent address shown in the records of the department.

(8) The district court or director may extend the time for filing a notice of claim.

SECTION 2. That Section 42-1411, Idaho Code, be, and the same is hereby amended to read as follows:

42-1411. REPORT OF THE DIRECTOR. (1) The director shall prepare a director's report on the water system. The director may file the director's report in parts as the director deems appropriate. The director may include such explanatory material as he deems appropriate in the director's report. Such explanatory material shall not impose any conditions or restrictions on the rights reported and shall not be subject to objection. This explanatory material shall not be used to support any notice of claim, objection to a notice of claim, or response to an objection.

(2) The director shall determine the following elements, to the extent the director deems appropriate and proper, to define and administer the water rights acquired under state law:

(a) ~~the~~ The name and address of the claimant;

(b) ~~the~~ The source of water;

(c) ~~the~~ The quantity of water used describing the rate of water diversion or, in the case of an instream flow right, the rate of water flow in cubic feet per second or annual volume of diversion of water for use or storage in acre-feet per year as necessary for the proper administration of the water right;

(d) ~~the~~ The date of priority; provided that for stockwater use on federal land, the director shall accept the date of the first grazing permit issued on the federal grazing allotment, pursuant to federal grazing authorizations, including but not limited to the Taylor grazing act, as prima facie evidence of the date of priority, unless the claimant produces evidence of earlier stockwater use on the federal land, which shall then establish the date of priority;

(e) ~~the~~ The legal description of the point(s) of diversion; if the claim is for an instream flow, then a legal description of the beginning and ending points of the claimed instream flow;

(f) ~~the~~ The purpose of use;

(g) ~~the~~ The period of the year when water is used for such purposes;

(h) a A legal description of the place of use; if one (1) of the purposes of use is irrigation, then the number of irrigated acres within each forty (40) acre subdivision, except that the place of use may be described using a general description in the manner provided under section 42-219, Idaho Code, which may consist of a digital boundary as defined in section 42-202B, Idaho Code, if the irrigation project would qualify to be so described under section 42-219, Idaho Code; provided that for stockwater use on federal land, there shall be a rebuttable presumption that the claimant's base property relates back to the base property when the first grazing permit was issued on the federal grazing land or when water was first applied to beneficial use on the federal land;

(i) ~~e~~ Conditions on the exercise of any water right included in any decree, license, or approved transfer application; and

(j) sSuch remarks and other matters as are necessary for definition of the right, for clarification of any element of a right, or for administration of the right by the director.

(3) The director may include such general provisions in the director's report, as the director deems appropriate and proper, to define and to administer all water rights.

(4) The director shall file the director's report with the district court, and the director's report shall be a part of the record. Upon filing with the court, the director's report, except for the explanatory material referred to in subsection (1) of this section, shall constitute prima facie evidence of the nature and extent of the water rights acquired under state law. The unobjected to portions of the director's report shall be decreed as reported.

(5) Each claimant of a water right acquired under state law has the ultimate burden of persuasion for each element of a water right. Since the director's report is prima facie evidence of the nature and extent of the water rights acquired under state law, a claimant of a water right acquired under state law has the burden of going forward with the evidence to establish any element of a water right which that is in addition to or inconsistent with the description in a director's report. Any party filing an objection to any portion of the director's report shall have the burden of going forward with the evidence to rebut the director's report as to all issues raised by the objection. Provided however, that a claimant objecting to the director's recommended place of use described by a digital boundary or other similar technology shall not be required to produce digital boundary or other similar technology-generated evidence in order to meet the burden provided by this section. Places of use described using digital boundaries or other similar technology-based descriptions shall not be entitled to any greater weight than descriptions by metes and bounds, the number of irrigated acres within each forty (40) acre subdivision, or other method adequate for the description of water rights. Any other party to the proceeding may submit evidence in opposition to the objector's position and in support of the director's report. All such proceedings shall be governed by the Idaho rules of civil procedure and Idaho rules of evidence.

(6) The director shall file an original of the director's report with the district court. The director shall also distribute for display and review at least one (1) copy of the director's report to the office of the clerk of the district court for each county in which any part of the water system is located. The director shall also serve on each claimant or the claimant's attorney whose water right is listed in the director's report a notice of filing of the director's report. Notice shall be sent to the last known address of the claimant or the claimant's attorney. The notice shall be prepared by the director using plain and concise language and shall include:

(a) a A statement that the director's report of the various water rights acquired under state law has been filed with the district court, naming the district court(s) to which the report was filed;

(b) a A copy of that portion of the report setting forth the claimant's water right;

(c) a A statement that a complete copy of the director's report is available for inspection, listing the locations at which the director's report is available, which shall include the office of the clerk of the district court for each county in which any part of the water system is located, the offices of the department, and any other locations the director may designate;

(d) a A statement that all or a portion of the director's report is available upon request at the offices of the department, subject to payment of a reasonable fee to cover costs of reproduction and mailing;

(e) a A statement that any claimant may file objections to any portion of the director's report with the district court specified in the notice and must mail a copy of the objection to the director, and to the claimant of each claimed right objected to, if the objector is not also the claimant of the right for which the objection is filed;

(f) ~~t~~The date prior to which all objections must be filed, which shall not be less than sixty (60) days for any director's report containing five hundred (500) claims or less, one hundred twenty (120) days for any director's report containing more than five hundred (500) claims and not more than five thousand (5,000) claims, and one hundred eighty (180) days for any director's report containing more than five thousand (5,000) claims; the above-stated periods of time shall commence on the date of service by mail of the notice of filing;

(g) a A statement that claimants may file responses with the court to objections filed against their claims, and that a copy of any response must be mailed to the director and to the objector;

(h) ~~t~~The date prior to which all responses to objections must be filed with the court, which shall not be less than sixty (60) days following receipt of a copy of the objection; and

(i) a A statement that any part of the report to which no objections are filed shall be decreed by the district court and the time and location set for the hearing at which the unobjected parts of the report will be decreed, which time shall not be less than sixty (60) days following the expiration of the period for filing objections.

(7) The director shall file an affidavit with the district court demonstrating compliance with the notice requirements of subsection (6) of this section.

Approved April 9, 2021

CHAPTER 160
(H.B. No. 260)

AN ACT

RELATING TO STATE BUDGET TERMINOLOGY; AMENDING CHAPTER 35, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-3501B, IDAHO CODE, TO DEFINE TERMS; AMENDING SECTION 67-3502, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-3507, IDAHO CODE, TO REVISE TERMINOLOGY, TO PROVIDE A CORRECT CODE REFERENCE, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-3508, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-3510, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 67-3511, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-3513, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 67-3516, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-3517, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-3519, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-3521, IDAHO CODE, TO REVISE PROVISIONS REGARDING ENCUMBRANCES AND EXECUTIVE CARRY FORWARD APPROVAL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-1001, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-1001A, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-1007, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-1021C, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 67-1056, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS;

AMENDING SECTION 67-1201, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-1203B, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 67-1209, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 67-1210, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-1210A, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-1212, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 67-1227, IDAHO CODE, TO REVISE TERMINOLOGY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 35, 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 67-3501B, Idaho Code, and to read as follows:

67-3501B. DEFINITIONS. The terms defined in this section shall have the following meanings, unless the context clearly indicates another meaning:

(1) "Account category" means a grouping of transactions for the purposes of identifying expenditure classifications, including personnel costs, operating expenditures, capital outlay, and trustee and benefit payments.

(2) "Appropriation" means a provision of legal authority given by the legislature that permits a department, office, or institution of the state to draw moneys from the state treasury for an object or demand against the state that is specified by amount, program, account category, fund, and period.

(3) "Encumbrance" means the recognition of a commitment that is a reduction against a current year appropriation and will subsequently become an expenditure when a good or service is received.

(4) "Executive carry forward" means an increase in the current year appropriation resulting from an unliquidated encumbrance balance from a prior fiscal year.

(5) "Fund" means a category of moneys in the treasury from which appropriations are made and the use of which is prescribed by law.

(6) "Program" means an activity or function of a department, office, or institution of the state, or a grouping thereof, for which appropriations are made and expenditures are reported.

SECTION 2. That Section 67-3502, Idaho Code, be, and the same is hereby amended to read as follows:

67-3502. FORMAT AND PREPARATION OF ANNUAL BUDGET REQUESTS. (1) In the preparation of a state budget, the administrator of the division of financial management shall, not later than the fifteenth day of July, have available for all departments, offices and institutions of the state government forms necessary to prepare budget requests. Such forms, whether in electronic or written format, shall be developed by the administrator of the division and the legislative services office to provide the following information:

(1a) For the preceding fiscal year, each of the entities listed above in this section shall report all ~~funds~~ moneys available to them regardless of source, including legislative appropriations, and their expenditures by fund and ~~object~~ account category of all sums received from all sources, segregated as provided for on the forms.

(2b) For the current fiscal year, each of the entities listed above in this section shall report their estimates of all funds moneys available to them regardless of source, including legislative appropriations, and their estimated expenditures by fund and ~~object~~ account category of all sums received from all sources, segregated as provided for on the forms, including a statement of the purposes for which anticipated funds moneys are expected to be expended.

(3c) An estimate of appropriations needed for the succeeding fiscal year, showing each primary program or major objective as a separate item of the request and itemized by ~~object code~~ account category.

(4d) A report concerning the condition and management of programs, program performance, and progress toward accomplishing program objectives.

(5e) A report that discloses any known future reductions or eliminations of federal funds moneys reported to the division of financial management under section 67-1910, Idaho Code, and the agency's plan for operating if there is a reduction of ten percent (10%) or more in the federal funds moneys that the state agency receives.

(2) The completed forms shall, not later than the first day of September, except with special permission and agreement of the administrator of the division of financial management and the director of the legislative services office, be filed in the office of the administrator of the division of financial management and the legislative services office. The legislative and judicial departments and the department of administration's division of public works shall, as early as practicable and in any event no later than the fifteenth day of November, prepare and file in the office of the governor and the legislative services office upon the forms described in this section a report of all of the information required in this section. The judicial department shall include in its filing the budget request of the judicial council as submitted by the judicial council.

SECTION 3. That Section 67-3507, Idaho Code, be, and the same is hereby amended to read as follows:

67-3507. EXECUTIVE BUDGET. The executive budget document shall consist of the following four (4) parts:

(1) Part I of the executive budget document shall consist of a budget message by the governor that shall outline the financial plan of the executive department of the state government for the next fiscal year, describing the important features of the financial plan.

(2) Part II of the budget document shall present in detail for the next fiscal year, as minimum information to be included in Part II, items showing estimates of agency needs based on the governor's recommendations, to meet the expenditure needs of the state from all available funds classified by agencies and showing the cost of each major program. Part II shall also set forth the governor's recommendations for the capital program. All funds moneys, including federal and local funds moneys and interagency receipts received for any purpose, shall be accounted for in the budget.

(3) Part III of the budget document shall consist of the annual performance plans required in section 67-1904, Idaho Code.

(4) Part IV of the budget document shall consist of the federal funding reports required under section 67-1917, Idaho Code, and the disclosures required under section 67-3502 (51) (e), Idaho Code.

SECTION 4. That Section 67-3508, Idaho Code, be, and the same is hereby amended to read as follows:

67-3508. EXPENDITURE OBJECT-CODES ACCOUNT CATEGORIES. (1) Excepting where the legislature expressly departs from the classification set forth in any appropriation bill, all appropriations made by the legislature, and all estimates hereafter made for budget purposes, and all expenditures made from appropriations or funds moneys received from other sources, shall be classified and standardized by items as follows:

(a) Personnel costs, which shall include the salaries or wage expenses of employees and officers, whether full-time, part-time, or other irregular or seasonal help and including compensation or honorarium of members of boards or commissions, and shall also include the employer's share of contributions related to other benefits provided to those employees and officers.

(b) Operating expenditures, which shall include all expenses for services, travel, consumable supplies, and minor items of equipment not otherwise classified under personnel costs, capital outlay, or trustee and benefit payments.

(c) Capital outlay, which, when used in an appropriation act, shall include all expenditures for land, highways, buildings including appurtenances, fixtures and fixed equipment, structures, which also includes additions, replacements, major repairs, and renovations to, which materially extends the capital assets' useful life or materially improves or increases its capacity, and shall include compensation for independent contractors. Automobiles, domestic animals, machinery, apparatus, equipment, and furniture including additions thereto, that will meet the state controller's fiscal policy for inventoriable capital assets, shall also be included.

(d) Trustee and benefit payments, which shall include the cash payments of welfare or retirement benefits to individuals and payments to individuals, persons, or political entities, and not otherwise classified under personnel costs, operating expenditures or capital outlay.

(2) (a) The state controller is hereby authorized and directed to implement such subclassifications of the standard classifications herein set forth which in this section that are necessary for preparation of the state budget, as supplied by the administrator of the division of financial management and the legislative services office.

(b) An annual review of the subclassifications shall be made by the administrator of the division and the legislative services office.

(c) The state controller shall be supplied the changes desired by the administrator and the legislative services office in the subclassifications which that are necessary for the preparation of the state budget or the identification and distribution of expenditures from appropriations no later than sixty (60) days prior to the beginning of any fiscal year to be effective for that fiscal year.

SECTION 5. That Section 67-3510, Idaho Code, be, and the same is hereby amended to read as follows:

67-3510. EXPENDITURE OBJECT-CODES ACCOUNT CATEGORIES MADE TO CONFORM. All object-codes account categories used in appropriations shall be made to conform to those set forth in section 67-3508, Idaho Code. All expenditures made from said appropriations shall be classified in conformity with the standard object-codes account categories. The state controller shall use the standard object-codes account categories in the classification of all expenditures drawn against any and all appropriations made by the Idaho legislature.

SECTION 6. That Section 67-3511, Idaho Code, be, and the same is hereby amended to read as follows:

67-3511. TRANSFER OF LEGISLATIVE APPROPRIATIONS. (1) No appropriations made by the Idaho legislature may be transferred from one ~~object-code~~ account category to another except with the consent of the state board of examiners upon application duly made by the head of any department, office or institution of the state (including the elected officers in the executive department and the state board of education). No appropriation made for expenses other than personnel costs shall be expended for personnel costs of the particular department, office or institution for which it is appropriated, provided however, that employee suggestion awards made pursuant to sections 59-1603 and 67-5309D, Idaho Code, may be made from the ~~object-code~~ account category in which the savings were realized.

(2) Legislative appropriations may be transferred from one program to another within an agency upon application duly made by the head of any department, office or institution of the state and approval of the application by the administrator of the division of financial management and the board of examiners, provided the requested transfer is not more than ten percent (10%) cumulative change from the appropriated amount for any program affected by the transfer. Requests for transfers above ten percent (10%) cumulative change must, in addition to the above, be approved by legislative appropriation. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the legislature.

(3) All moneys appropriated to any agency of the state of Idaho for the purpose of capital outlay shall be used for that purpose and not for any other purpose.

(4) The joint finance-appropriations committee may limit the amount of legislative appropriations for personnel costs which that can be transferred to other ~~object-codes~~ account categories.

SECTION 7. That Section 67-3513, Idaho Code, be, and the same is hereby amended to read as follows:

67-3513. COMMITTEES OF LEGISLATURE TO CONSIDER BUDGET. (1) The standing committees of the house of representatives and of the senate in charge of appropriation measures shall sit jointly in open sessions while considering the budget. Such committee may resolve itself into executive session upon the vote of two-thirds (2/3) of the membership of the committee, at which time persons who are not members of the legislature may be excluded; provided, however, that during such executive session, no votes or any official action may be taken. The administrator of the division of financial management or his designated representative shall attend all meetings of the joint committee and shall present to the committee the recommendations of the governor for amounts to be appropriated for each department, office and institution, including the elective officers and the state board of education, such presentation to include all information necessary to substantiate the recommendations of the governor. The joint committee at its discretion may cause the attendance of heads or responsible representatives of said departments, offices and institutions. The joint committee may increase or decrease items in the budget as it may deem to be in the interests of greater economy and efficiency in the public service.

(2) By not later than January 15 of each year, the administrator of the division of financial management shall report to the joint committee the following minimal information:

(a) A list by department, by program, and by funding source of all permanent positions authorized as of January 1 of that year and the current salary established for each position as of January 1 of that year; the

list shall also designate which of the listed positions were vacant as of January 1, and the date such position became vacant.

(b) A list by department, by program, and by funding source of the amounts needed to fund the state employee compensation changes being recommended by the governor, which list must be prepared to show the individual cost of each component of the compensation changes.

(c) A report that compiles and summarizes the information the division of financial management received in accordance with sections 67-1917 and 67-3502 (51) (e), Idaho Code.

SECTION 8. That Section 67-3516, Idaho Code, be, and the same is hereby amended to read as follows:

67-3516. APPROPRIATION ACTS DEEMED FIXED BUDGETS -- RATE OF EXPENDITURE. (1) Appropriation acts when passed by the legislature of the state of Idaho, and spending authority made thereunder, whether the appropriation is fixed or continuing, are fixed budgets beyond which state officers, departments, bureaus, and institutions may not expend.

(2) Funds Moneys available to any agency from sources other than state funds moneys, if not cognizable at the time when appropriations were made whether state fiscal liability is increased or not, must have prior approval of the administrator of the division of financial management and the board of examiners in order that funds moneys may be expended, except those funds moneys received under such conditions that preclude approval by the administrator of the division and/or the board of examiners. Receipts from the sale of capital outlay items and insurance claim settlements may, with the approval of the division of financial management, be included as an increase to an agency's appropriation and must be identified at an object code account category level. Expenditure of such receipts must be for capital outlay items, except in the case of a sale of a motor vehicle, which, notwithstanding section 67-3511(3), Idaho Code, may be transferred to operating expenditures with the approval of the division of financial management.

(3) One state agency may bill another state agency for goods and services, provided the billing agency receives prior approval in writing from the billed agency or such billing is provided for by law. This process will be known as interagency billing to which the following rules will apply:

(a) The state controller will treat interagency receipts as revenue and not classify such revenue as a reduction of the expenditures of the receiving agency. Interagency billing credits for all funds moneys shall be deposited to the appropriate fund of that agency.

(b) Interagency receipts may be expended by the collecting agency to the extent that authority to do so has been requested and approved by the legislature through an appropriation.

(c) The agency which is billed for the goods and services shall classify, treat, and account for such expenses in the same manner as if such expenses had been paid by warrant and may encumber unexpended balances and may carry forward the encumbered appropriation to liquidate known or anticipated interagency billing expenses at the end of a fiscal year. The state controller shall provide for the method of liquidation of these encumbrances.

(4) State agencies selling goods, products, and services to another state agency must use the interagency process detailed by subsection (3) of this section. State agencies, departments, and institutions may sell goods, products, and services to the public and/or other political entities. These cash receipts may be expended according to the following rules:

(a) The state controller will classify these moneys as receipts.

(b) Receipts for all funds moneys shall be deposited to the appropriate fund of that agency.

(c) The collecting agency may expend all such receipts only to the extent that authority to do so has been requested and approved by the legislature through an appropriation, except receipts received by agencies under the circumstances cited in subsection (2) of this section.

SECTION 9. That Section 67-3517, Idaho Code, be, and the same is hereby amended to read as follows:

67-3517. REQUESTS FOR SPENDING AUTHORITY BY OFFICIALS, DEPARTMENTS, BUREAUS, AND INSTITUTIONS. In order to guard against excessive expenditure of appropriations, and as an act of economy, efficiency, and control relating to said appropriations, it is hereby made the duty of each officer, department, bureau, and institution, except the legislative and judicial departments, to file with the administrator of the division of financial management, who shall forward to the state controller, a request for spending authority of funds moneys to be made available during the fiscal year, from the legislative appropriation to said officer, department, bureau, or institution. Requests for spending authority shall be submitted to the administrator of the division at a time as prescribed by the administrator of the division, and, as a general rule, in the same detail as appropriated, unless greater detail is deemed necessary by the administrator of the division. The legislative and judicial departments shall file a request for spending authority of funds moneys with the state controller not later than fifteen (15) days prior to the expiration of the current spending authority, in such detail as the submitting agency desires. It shall be the duty of the state controller to provide a monthly report in the same or greater detail as the request for spending authority, which includes any adjustments made during the course of the fiscal year, expenditures for the month and expenditures to date for the year, and the percent of unexpended balance in the adjusted spending authority, and the percent of unexpended balance in the adjusted appropriation, if any.

SECTION 10. That Section 67-3519, Idaho Code, be, and the same is hereby amended to read as follows:

67-3519. EMPLOYEE POSITIONS -- PROCEDURE FOR FILLING. (1) In addition to any powers, duties, functions, and responsibilities of the division of financial management expressed elsewhere in this code, the division shall establish a list of employee positions for which funds moneys are available from the spending authority of appropriated funds moneys to each appointing authority. A position is defined as a specific job normally held by one (1) employee. This list shall contain the title of each position and the pay grade of the position. No appointing authority, except those in the legislative and judicial departments, shall fill a new position without first obtaining the approval of the division and then obtaining proper classification from the personnel commission for positions in the classified service. No appointing authority, except those in the legislative and judicial departments, may increase the pay grade of a position by reclassification or any other means without the approval of the personnel commission for pay grade level and without the approval of the division for sufficiency of spending authority of the appointing authority to meet the proposed change. Appointing authorities in preparation of budget requests shall include exact position control numbers in justification of salaries and other compensation and must assign position control numbers to proposed new positions prior to budget submission. A list of additions, deletions and changes during the first six (6) months of the current fiscal year and projections for the second six (6) months of the current fiscal year of the positions so controlled shall be furnished by the department to the legislature and to the governor on January 1. Any authority vested in any appointing authority or

agency, commission, department, board, office or institution is limited by the provisions of this section.

(2) Positions which have been authorized by the division of financial management, but which have not been filled by the appointing authority within twelve (12) months of such authorization, shall be declared null and void, and shall not be filled except upon a new authorization by the division of financial management.

SECTION 11. That Section 67-3521, Idaho Code, be, and the same is hereby amended to read as follows:

67-3521. ENCUMBERING APPROPRIATIONS OR EXCESSIVE EXPENDITURES FORBIDDEN -- ENCUMBRANCES TO REVERT -- EXECUTIVE CARRY FORWARD APPROVAL. (1) No officer, department, bureau, or institution, shall encumber any appropriations or be allowed to make any expenditures from appropriations in excess of the spending authority provided by this act chapter.

(2) Encumbrances shall be reported as reductions against appropriations in anticipation of an object-coded expenditure, shall be made only for a legally contracted obligation or for the accrued cost of a specific product or service due and payable prior to or as of the end of the current fiscal year or for the term of the contract obligation, and shall not be used as a means of reserving a portion of the appropriation of one (1) fiscal year to be used in combination with the appropriation of the following year. Requests for encumbrances executive carry forward shall be accompanied by proper identification of the accrued cost, which must be adequately covered by appropriated funds moneys from the current fiscal year.

(3) ~~Encumbrances not liquidated by payment of the accrued cost during the succeeding fiscal year shall revert to the fund from which encumbered, unless approved for extension by the administrator of the division of financial management.~~

~~(4) Requests for encumbrances must have the approval of the administrator of the division of financial management.~~

~~(5) Notwithstanding any of the above provisions of this section to the contrary, all purchase orders issued by the state purchasing agent administrator of division of purchasing, or purchase orders issued pursuant to a delegation of purchasing authority to specified state officers and employees, shall be encumbered, and, if not liquidated by payment of the accrued cost during the current fiscal year, shall be included as executive carry forward. Such encumbrance and executive carry forward shall not require the approval of the administrator of the division of financial management for executive carry forward.~~

~~(6) When purchase requisitions are submitted by agencies prior to the state purchasing agent's administrator of division of purchasing's fiscal year-end cutoff date, but not processed either due to workload or bid requirements, agencies may submit a request for encumbrance executive carry forward to the administrator of the division of financial management.~~

~~(5) Executive carry forward not liquidated by payment of the accrued cost during the succeeding fiscal year shall revert to the fund from which it originated and shall be recorded as a reversion in that fiscal year, unless approved for extension by the administrator of the division of financial management. Liquidation of executive carry forward shall be recorded as an expenditure only in the fiscal year in which it is liquidated.~~

~~(7) The provisions of this section shall not apply to encumbrances involving vocational educational or professional-career technical reimbursements to educational institutions or to encumbrances involving contracts for the construction of highways, bridges, buildings, or other primary structures or capital improvements and, if not liquidated by payment of the accrued cost during the current fiscal year, shall be included as executive carry forward.~~

SECTION 12. That Section 67-1001, Idaho Code, be, and the same is hereby amended to read as follows:

67-1001. DUTIES OF CONTROLLER. It is the duty of the state controller:

(1) To superintend the fiscal concerns of the state, with its accounting, informational, payroll, and related data processing services.

(2) To deliver to the governor and the legislative services office on or before the first day of January, a financial statement, which complies with generally accepted accounting principles, of the funds of the state, its revenues, and of the public expenditures during the preceding fiscal year.

(3) When requested, to give information in writing to either house of the legislature relating to the fiscal affairs of the state or the duties of his office.

(4) To suggest plans and provide internal control standards for the improvement and management of the public revenues, assets, expenditures and liabilities.

(5) To keep and state all accounts funds in which the state is interested.

(6) To keep an account of all warrants drawn upon the treasurer, and a separate account under the head of each specified appropriation, showing at all times the unexpended balance of such appropriation.

(7) To keep an account between the state and the treasurer, and therein charge the treasurer with the balance in the treasury when he came into office, and with all moneys received by him, and credit him with all warrants drawn on and paid by him.

(8) To keep a register of warrants, showing the fund or funds upon which they are drawn, the number, in whose favor, the appropriation applicable to the payment thereof, and when the liability accrued.

(9) To examine and settle the accounts of all persons indebted to the state.

(10) In his discretion, to require any person presenting an account for settlement to be sworn before him, and to answer, orally or in writing, as to any facts relating to it.

(11) To require all persons who have received any moneys belonging to the state and have not accounted therefor to settle their accounts.

(12) To account for the collection of all moneys due the state, not the responsibility of any other agency and institute suits in its name for all official delinquencies in relation to assessment, collection and payment of the revenue, and against persons who by any means have become possessed of public money or property and fail to pay over or deliver the same, and against all debtors of the state, of which suits the courts of Ada County have jurisdiction, without regard to the residence of the defendants.

(13) To draw warrants on the treasurer for the payment of moneys directed by law to be paid out of the treasury; but no warrant must be drawn unless authorized by law.

(14) To furnish the state treasurer with a daily total dollar amount, by fund, and/or account when requested by the state treasurer, of warrants drawn upon the treasury.

(15) To authenticate with his signature, his electronic signature, or his facsimile signature all warrants drawn by him, and all copies of official documents issued from his office.

(16) To charge the state treasurer with money and evidences of indebtedness received from and credit him for money drawn by the state board of land commissioners in the moneys or accounts over which said board has control.

(17) To act *ex officio* as member of the state board of canvassers and state board of land commissioners, secretary of the state board of examiners, and participant in other organizations in the performance of such duties as prescribed by law for such officer.

(18) To create and establish such divisions and other administrative units within the office as necessary.

SECTION 13. That Section 67-1001A, Idaho Code, be, and the same is hereby amended to read as follows:

67-1001A. DEFINITIONS. As used in this chapter and other applicable sections of Idaho Code, each of the terms defined in this section shall have the meaning herein given unless a different meaning is clearly required by the context.

(1) "Certification" means a written or electronic assertion that a statement or report is true or as represented.

(2) "Defaulter" means one who misappropriates public funds moneys held by him in any official or fiduciary capacity, or fails to provide an accounting as specified by the state controller for such funds moneys.

(3) "Examine" means open to inspection; to review or evaluate the books, papers, accounts, bills, vouchers, other documents of state funds moneys and property, or accounts or financial records of all state agencies and entities receiving state funds moneys in accordance with generally accepted accounting practices.

(4) "Financial statement" means a quantitative report summarizing the financial position of an entity as of a particular date and the operating results of that entity for a particular period.

(5) "Internal control" means a coordinated system of methods and measures designed to safeguard assets, check the accuracy and reliability of accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies.

(6) "Offset" means to withhold payment, in full or in part, from a recipient of state money whenever that recipient has an outstanding debt to the state.

(7) "Post-audit" means an independent audit of the financial statements of the state of Idaho for purposes of rendering an opinion of such statements in conformity with generally accepted accounting principles.

(8) "Voucher" means a receipt, acquittance or release in writing or electronic transmission that may serve as evidence of payment or discharge of debt; a document that serves to recognize a liability and authorize the disbursement of cash.

(9) "Warrant" means a negotiable instrument payable by the state treasury when funds moneys become available for the stated purpose; a warrant may include, but is not necessarily limited to, a payment mechanism such as direct deposit, electronic fund transfer, paper warrant or other financial instrument.

SECTION 14. That Section 67-1007, Idaho Code, be, and the same is hereby amended to read as follows:

67-1007. STATE OFFICERS AND CUSTODIANS OF STATE FUNDS MONEYS -- EXAMINATION. The state controller may examine any of the books, papers, accounts, bills, vouchers or other documents of property of any or all of the state officers, and custodians of state funds moneys. He may examine, under oath, state officers and the custodians of state funds moneys aforesaid.

SECTION 15. That Section 67-1021C, Idaho Code, be, and the same is hereby amended to read as follows:

67-1021C. BUSINESS INFORMATION INFRASTRUCTURE FUND. There is hereby created in the state treasury a fund to be known as the business information infrastructure fund, which shall consist of all moneys credited or transferred in accordance with section 67-1021A, Idaho Code, and any other ~~fund~~ moneys appropriated or transferred in accordance with law. The fund is hereby continuously appropriated to the state controller for the purposes of procurement and implementation of a statewide enterprise resource planning system including, but not necessarily limited to, financial, payroll, budget, human capital management and procurement systems. All interest earned on the investment of idle moneys in the fund shall be returned to the fund. All moneys in the fund shall be used for the procurement and implementation of the system as set forth in this section. Any unexpended moneys remaining after June 30, 2023, shall revert to the general fund.

SECTION 16. That Section 67-1056, Idaho Code, be, and the same is hereby amended to read as follows:

67-1056. REPORT OF EXAMINATION TO GOVERNOR -- ACTION AGAINST DELINQUENT OFFICIAL. The state controller shall report to the governor the result of his examination, as well as any failure of duty of any public official, as often as he thinks it may be required by public interest. The governor may cause the result of any examination, made by the state controller, to be made public or, at his discretion, may take such action for the public security as the exigency may demand. He may, if he deems the public interest to require it, suspend any officer from further performance of duty until the examination be had or such security be obtained as may be demanded for the prompt protection of public ~~fund~~ moneys.

SECTION 17. 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. The treasurer may:

 - ~~(a.)~~ Name additional or multiple custodians for such moneys.
 - ~~(b.)~~ Administer programs associated with receipt and keeping such moneys and enter into contracts related to such programs.
- ~~(2.)~~ To file and keep, for not less than two (2) years, the records 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 section 9-328, Idaho Code, unless a specific written request for further retention has been made to the treasurer.
- ~~(3.)~~ To report to each person paying money into the treasury a receipt showing the amount and the date of deposit. Receipts must be numbered uniquely within each fiscal year.
- ~~(4.)~~ To pay amounts drawn by the state controller by generally available commercial payment methods, including but not limited to warrants, electronic payment and wire transfer, out of the accounting entity upon which they are drawn. The treasurer may enter into contracts related to administration and execution of these payment methods. The treasurer may administer programs associated with commercial payment methods and enter into contracts related to such programs.
- ~~(5.)~~ To invest idle moneys in the state treasury in permitted investments, and to pay the interest received on all such investments, unless otherwise specifically required by law, into the general ~~account~~ fund in the state operating fund.

(6-) To keep, for as long as the treasurer deems necessary, a record of all moneys received and disbursed.

(7-) To keep, for as long as the treasurer deems necessary, separate records of the different funds.

(8-) To report to the state controller daily, the amount disbursed for payment by warrants or other commercial payment method; which report must show the date and number of such payments, 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, upon request, 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, as the treasurer deems appropriate, all writings and papers issued from his office.

(12-) To discharge such other duties as may be imposed upon him by law.

SECTION 18. That Section 67-1203B, Idaho Code, be, and the same is hereby amended to read as follows:

67-1203B. RECOMMENDATION OF THE TYPES AND KINDS OF INVESTMENTS. (1) The investment board shall recommend the types and kinds of investments that the state treasurer or an investment manager would utilize to manage the idle ~~fund~~ moneys and such other ~~fund~~ moneys as the treasurer is authorized to invest pursuant to sections 67-1210 and 67-1210A, Idaho Code.

(2) The investment board shall recommend investment policies governing the investment of idle ~~fund~~ moneys and other ~~fund~~ moneys accepted for investment by the state treasurer. The recommendations shall pertain to the types, kinds or nature of investment of any of the ~~fund~~ moneys and any limitations, conditions or restrictions upon the methods, practices or procedures for investment, reinvestments, purchases, sales or exchange transactions, provided such recommendations shall not conflict with nor be in derogation of any Idaho constitutional provision or of the provisions of this chapter.

(3) The investment advisory board, in making recommendations, and the state treasurer and all investment managers shall be governed by the Idaho uniform prudent investor act, chapter 5, title 68, Idaho Code. The state treasurer and any investment manager shall invest and manage the assets of the respective funds in accordance with that act and the Idaho constitution.

SECTION 19. That Section 67-1209, Idaho Code, be, and the same is hereby amended to read as follows:

67-1209. SUSPENSE ACCOUNT FUND. Any state officer, department, board, or institution having or receiving money in trust or for safekeeping pending its final disposition or distribution shall deposit the same in the state treasury in a special suspense ~~account~~ fund from which it may be withdrawn or distributed under policies and procedures of the state controller.

SECTION 20. That Section 67-1210, Idaho Code, be, and the same is hereby amended to read as follows:

67-1210. INVESTMENT OF IDLE MONEYS. (1) It shall be the duty of the state treasurer to invest idle moneys in the state treasury 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, 12 U.S.C. 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, 12 U.S.C. 1421-1449; in bonds, debentures and other obligations of the federal national mortgage association established under the national housing act, 12 U.S.C. 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 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 deposit insurance 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.

(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.

(2) The term "idle moneys" means the balance of cash and other evidences of indebtedness that 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.

(3) The interest received on all such investments, unless otherwise specifically required by law, shall be paid into the general account fund of the state of Idaho. Provided, unless otherwise specifically provided by statute, any interest earned on funds moneys received by the state pursuant to a federal law, regulation, or federal-state agreement that governs disposition of interest earned upon such funds moneys shall be accounted for separately to give effect to the federal law, regulation, or federal-state agreement.

(4) If the interest is to be credited to a separate account fund, the state treasurer shall charge the account fund 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. The fee shall be expressed as an annual percentage of the average daily balance of the account fund, including separate investments, if any, of that account fund. The fee shall be charged monthly in an amount approximately one twelfth (1/12) of the fee that would be payable on an annual basis. The amount of the investment administration fee shall constitute an appropriation from the account fund for which the investment administration services are rendered.

(5) The state treasurer shall charge an investment administration fee to each such state fund or account, including the general account, which fund, that is invested 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. 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 that 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.

(6) 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 21. That Section 67-1210A, Idaho Code, be, and the same is hereby amended to read as follows:

67-1210A. ADDITIONAL ALLOWABLE INVESTMENTS BY THE STATE TREASURER. (1) In addition to investments enumerated in section 67-1210, Idaho Code, the state treasurer is authorized and empowered to invest state funds moneys or any other funds moneys in his hands, including, but not limited to, funds moneys of any public agency invested pursuant to joint exercise of powers agreements, in prime banker's acceptances and prime commercial paper, sales and repurchase of call options, and bonds, debentures or notes of any corporation organized, domiciled and operating within the United States which have, at the time of their purchase, an A rating or higher by a commonly known rating service. The sale (writing) and repurchase of call options is permitted only when the state treasurer or the joint powers local government pooled fund owns the securities on which the option is written.

(2) The provisions of this section shall not be construed to enlarge the powers of other public agencies to invest in prime banker's acceptances, prime commercial paper, sales and repurchase of call options, or bonds, debentures or notes of any corporation unless such investments are made by the state treasurer pursuant to a joint exercise of powers agreement.

SECTION 22. That Section 67-1212, Idaho Code, be, and the same is hereby amended to read as follows:

67-1212. UNPAID WARRANTS -- INTEREST -- RECORD. (1) All warrants drawn upon funds in which the balance is insufficient to pay them must be reported to the state treasurer by the state controller. All such warrants shall be registered by the state treasurer as follows: he shall date and sign the report and return the same to the state controller who shall notify the respective payees. It is the duty of the state treasurer to keep a report of all warrants not paid for want of moneys, in which report such warrants shall be listed in numerical order, and when paid the treasurer shall note the amount of interest paid and the date of payment. Any such warrants registered by the state treasurer shall from date of registration until paid bear interest at a rate to be fixed by the state treasurer.

(2) In lieu of registering warrants as provided in subsection (1) of this section, the state treasurer shall have authority to:

(a) Pay such warrants out of any moneys available allowing the fund to remain negative for up to thirty (30) days; the state treasurer shall charge the fund ~~or account~~ for which such moneys are advanced an amount of interest substantially equal to what could have been earned had the advanced moneys been invested, and the amount of the interest shall constitute an appropriation from the fund ~~or account~~ for which the advancement was made. If moneys are not sufficient in the fund after thirty (30) days, unless otherwise excepted by law, the state treasurer shall make inter-fund transfers subject to the following requirements:

(i) All transfers shall be identified by: available funds from which moneys are borrowed, the fund to which the moneys are transferred, amount of transfer, the anticipated interest rate consistent with the available funds' current rate of return, if applicable, the anticipated repayment date and the reason for the transfer;

(ii) Interest, if applicable, shall be paid on any transfer, where required by law, under this provision;

(iii) The treasurer shall maintain an annual report of all such inter-fund transfers.

(b) Issue tax anticipation notes as provided by chapter 32, title 63, or section 57-1112, Idaho Code.

SECTION 23. That Section 67-1227, Idaho Code, be, and the same is hereby amended 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~~ moneys of an Idaho agency or ~~funds~~ moneys 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~~ moneys 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~~ moneys submitted for investment under this section with ~~funds~~ moneys invested by the state treasurer under any program authorized by this chapter. The treasurer may require the agency to certify its authority to submit the ~~funds~~ moneys for investment by the state treasurer and its authority to invest the ~~funds~~ moneys in the investments authorized by this

section. The costs of investing funds moneys pursuant to this section shall be paid from the funds moneys invested or the earnings on such funds moneys or from a fund designated in advance by the agency.

SECTION 24. This act shall be in full force and effect on and after July 2, 2021.

Approved April 9, 2021

CHAPTER 161
(H.B. No. 267)

AN ACT

RELATING TO WATER; AMENDING SECTION 42-1760, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE WATER MANAGEMENT ACCOUNT.

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

SECTION 1. That Section 42-1760, Idaho Code, be, and the same is hereby amended to read as follows:

42-1760. WATER MANAGEMENT ACCOUNT. (1) There is hereby created and established in the trust and agency fund the water management account. All moneys in the account are appropriated continuously to the water resource board to be used and administered by it for the purposes specified in subsection (2) of this section, and shall not be subject to the provisions of the standard appropriations act of 1945 or section 67-3516, Idaho Code. The state treasurer shall invest the idle moneys of the account, and the interest earned on such investments shall be retained by the account.

(2) The board may expend, loan, or grant moneys from the water management account for new water projects ~~or the rehabilitation of existing water projects limited to the following purposes: reclamation, upstream storage, offstream storage, aquifer recharge, reservoir site acquisition and protection, water supply, water quality, recreation, and water resource studies, including feasibility studies for qualifying projects, including studies, that conserve or increase water supply, improve drought resiliency, address water sustainability, or support flood management.~~ The board shall have the authority to determine which water projects are undertaken pursuant to this section subject to the reporting requirements of subsection (3) of this section.

(a) Expenditures may be made from the account to provide public moneys for participation in any project constructed with funds from the water resource board revolving development account provided by section 42-1756, Idaho Code.

(b) Grants and loans may be made by the board from the account for any project in the public interest for the projects authorized by this section; no single annual grant shall exceed fifty thousand dollars (\$50,000) unless legislative approval has been obtained. This provision shall not apply to projects selected by the board under paragraph (c) of this subsection or for flood management grants as may be authorized by the board.

(c) Expenditures may be made from the account ~~for include but are not limited to the state's participation in the costs of the following large water infrastructure projects:~~

(i) ~~Costs associated with t~~The construction of a raise of Anderson ranch dam, located on the south fork of the Boise river;

~~(ii) Costs associated with t~~The Mountain Home air force base water delivery and treatment systems; and

~~(iii) The enlargement or construction of new or existing surface storage reservoirs owned and operated by the United States bureau of reclamation or army corps of engineers~~ identification, study, and construction of managed aquifer recharge sites above Milner dam to benefit existing water rights, including to meet the state's commitments under settlement agreements.

~~(d) The selection of any new large water infrastructure~~ Any project selected pursuant to paragraph (c) of this subsection must consider and protect all existing water rights and consider the effects of such projects on other water uses, such as water quality, fish and wildlife, recreation, and hydropower, that provide economic value, stability, water sustainability, drought resiliency, and other benefits to the citizens of the state.

~~(3e) Any large infrastructure project receiving any portion of the funds approved pursuant to subsection (2) (c) of this section shall require that~~ Preference for the distribution of funds shall be given with at least fifty percent (50%) matching funds be provided by parties other than the state. In the event of in-kind contributions, the board shall determine the value of the in-kind contribution.

~~(43) On or before the first day of each regular legislative session, the board shall submit to the legislature a report of any moneys expended or obligated and any work begun and/or completed in the prior or current fiscal year on a project selected pursuant to subsection (2) (c) of this section.~~ relating to the prior and current fiscal year that includes the following information:

(a) A list of all projects considered by the board to receive funds from the water management account;

(b) A statement of all projects receiving moneys from the water management account, including:

(i) A description of how the project meets the purposes of the water management account, as identified in subsection (2) of this section;

(ii) A statement of all moneys expended or obligated from the water management account for the project; and

(iii) A status report on the project, including identification of work begun or completed and any anticipated further work within the next calendar year; and

(c) Any anticipated future projects for which funding may be requested from the water management account.

This information shall also be included as part of the board's budget report to the joint finance-appropriation committee during each legislative session.

~~(54) The director of the department of water resources shall assist the board in any way the board deems necessary to fulfill the policy and purpose of the water management account, including technical evaluation of proposed projects and coordination in state and federal agencies.~~

Approved April 9, 2021

CHAPTER 162
(H.B. No. 268)

AN ACT

RELATING TO WATER; AMENDING SECTION 42-204, IDAHO CODE, TO REVISE PROVISIONS REGARDING EXTENSIONS OF TIME FOR CONSTRUCTION, WORK, OR APPLICATION OF WATER TO FULL BENEFICIAL USE, TO PROVIDE FOR THE EXTENSION OF TIME FOR COMPLETION OF WORKS AND APPLICATION OF WATER TO FULL BENEFICIAL USE UNDER SPECIFIED CONDITIONS, TO PROVIDE FOR APPLICABILITY, AND TO CLARIFY PROVISIONS REGARDING EXTENSIONS.

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

SECTION 1. That Section 42-204, Idaho Code, be, and the same is hereby amended to read as follows:

42-204. EXAMINATION -- PERMIT -- COMMENCEMENT OF WORK -- EXTENSIONS -- APPEAL. (1) On receipt of the application, which shall be of a form prescribed by the department of water resources, it shall be the duty of that department to make an endorsement thereon of the date of its receipt and to examine said application and ascertain if it sets forth all the facts necessary to show the location, nature and amount of the proposed use. If upon such examination the application is found defective, it shall be the duty of the department of water resources to return the same for correction or to correspond with the applicant to obtain the needed information or amendments. If the application is returned to the applicant or the department shall request additional information and the applicant fails to return the corrected application or to supply the needed information within thirty (30) days, the department may void the record of said application and notify the applicant of such action. If the corrected application is returned or the information is supplied after thirty (30) days, such corrected application shall be treated in all respects as a new application, and the priority of the right initiated shall be determined by the date of receipt in the office of the department of the corrected application or additional information; provided, that upon request, and good cause appearing therefor, the director of the department of water resources may grant an extension of time within which to return the corrected application or supply needed information. All applications that comply with the provisions of this chapter and with the regulations of the department of water resources shall be numbered in such manner as will aid in their identification, and it shall be the duty of the department to approve all applications made in proper form that contemplate the application of water to a beneficial use: provided, that the department may deny any such application, or may partially approve and grant a permit for a lesser quantity of water than applied for, or may grant a permit upon conditions as provided in this chapter.

(2) The department of water resources shall issue a permit for any approved application, make a record of the approval and provide a copy of the permit to the applicant, who shall be authorized, on receipt thereof, to proceed with the construction of the necessary works for the diversion of such water and to take all steps required to apply the water to a beneficial use and perfect the proposed appropriation.

(3) The provisions of this subsection shall not apply to permits held by municipal providers for reasonably anticipated future needs. For all other permits, the department shall require that actual construction work and application of the water to full beneficial use shall be complete within a period of five (5) years from the date of such approval, but may limit permit development to a shorter period than requested in the application, and the permit shall set forth the date when beneficial application of the water to

be diverted by such works shall be made. Sixty (60) days before the date set for the completion of the appropriation of water under any permit, the department shall forward a notice to the permit holder by certified mail at the permit holder's address of record of the date for such completion, which said notice shall advise the permit holder of the necessity of submitting a statement of completion showing proof of beneficial use or a request for an extension of time on or before said date. The department may approve a timely request for an extension of time in the following circumstances:

(a) In cases where the permit holder is prevented from proceeding with construction, work, or application of water to full beneficial use by the permit holder's failure to obtain necessary consent or final approval or rejection from the federal government because of the pendency of an application for right-of-way or other matter within the jurisdiction of the United States, by state, county, city or other local government permitting or administrative action or process related to the permit holder's land or water development, or by litigation of ~~any nature which might bring the permit holder's title to said water in question~~ related to the permit holder's land or water development, the department of water resources, upon proper showing of the existence of any such condition, and being convinced that said permit holder is proceeding diligently and in good faith, shall extend the time so that the amount of time lost by such delays shall be added to the time given in the original permit, or in any subsequent grant of extension pursuant to paragraph (b), (c), (d), or (f) of this subsection, for each and every action required.

(b) The time for completion of works and application of the water to full beneficial use under any permit involving the diversion of more than twenty-five thousand (25,000) acre-feet in one (1) irrigation season for a project of no less than five thousand (5,000) acres may, upon application to the director of the department of water resources supported by a showing that additional time is needed on account of the time required for organizing, financing and constructing works of such large size, be extended by the director of the department of water resources for up to twelve (12) years beyond the initial development deadline contained in the permit, or beyond a grant of extension pursuant to the provisions of paragraph (a) of this subsection: Provided, that no such extension shall be granted unless the permit holder for such extension shall show that there has been actually expended toward the construction of said diversion, including expenditures for the purchase of rights-of-way and property in connection therewith, at least one hundred thousand dollars (\$100,000).

(c) The time for completion of works and application of the water to full beneficial use under any permit involving the construction of a reservoir of more than ten thousand (10,000) acre-feet capacity or for the appropriation of water to be impounded in such reservoir of more than ten thousand (10,000) acre-feet capacity may be extended by the director of the department of water resources upon application to the director if the permit holder establishes that the permit holder has exercised reasonable diligence and that good cause exists for the requested extension.

(d) The time for completion of works and application of the water to full beneficial use: (i) under any permit involving authorizing the diversion of two (2) or more cubic feet per second of water or the development or cultivation of one hundred (100) or more acres of land or (ii) under any permit that, when combined with another permit, authorizes the diversion of two (2) or more cubic feet per second of water or the development or cultivation of one hundred (100) or more acres of land, provided the permits have a common or combined diversion and distribution system, are owned by the same permit holder, and are

approved within five (5) years of each other may be extended by the director of the department of water resources upon application by the permit holder for an additional period up to ten (10) years beyond the initial development deadline contained in the permit, or beyond a grant of extension pursuant to the provisions of paragraph (a) of this subsection, provided the permit holder establishes that the permit holder has exercised reasonable diligence and that good cause exists for the requested extension.

(e) In connection with permits held by the United States, or the Idaho water resource board, whether acquired as the original applicant by assignment or otherwise, the director of the department of water resources may extend the time for completion of the works and application of the water to full beneficial use for such additional period or periods of time as the director may deem necessary upon an extension request supported by a showing that such additional time is required by reason of the status of plans, authorization, construction fund appropriations, construction, or any arrangements that are found to be requisite to completion of the construction of such works.

(f) In all other situations not governed by these provisions, the department may grant one (1) extension of time, not exceeding five (5) years beyond the date originally set for completion of works and application of the water to full beneficial use, or beyond any grant of extension pursuant to the provisions of paragraph (a) of this subsection, upon request for extension received on or before the date set for completion, provided good cause appears therefor.

(4) For permits held by municipal providers for reasonably anticipated future needs, the permit development period shall correspond to the planning horizon authorized by the permit, which may not be extended. During the permit development period, the municipal provider shall periodically submit to the department incremental statements of completion showing proof of beneficial use consistent with the provisions of section 42-217, Idaho Code. Each such incremental statement shall document the extent of application of water to beneficial use during the most recent reporting interval. Each incremental statement shall be prepared by a certified water rights examiner, unless the permit holder is not asserting any additional increment of beneficial use during that reporting interval. The department shall set and may later adjust the duration of any reporting interval for any permit, which shall be made a condition of the permit, to any duration not shorter than five (5) years. Sixty (60) days before the end of each reporting interval, the department shall forward a notice to the municipal provider by certified mail to its address of record specifying the date the incremental statement is due. Unless an extension of the deadline for the incremental statement is requested by the municipal provider prior to the deadline, and the extension is approved by the director upon a showing of good cause, failure to timely submit an incremental statement shall result in a lapse of that portion of the permit that has not previously been licensed or for which an incremental statement of completion showing proof of beneficial use has not been submitted. Such lapsed permit portion may be reinstated only in accordance with the provisions of section 42-218a, Idaho Code. For reasonably anticipated future needs permits existing on July 1, 2020, the department shall have one (1) year from July 1, 2020, either to issue a license, where proof already has been submitted, or to modify the permit to conform to the provisions of this section by establishing future reporting intervals for periodic proof statements, by establishing the date for the final proof statement corresponding with the end of the planning horizon authorized by the existing permit, and by updating approval conditions to clarify whether information that must be submitted with proof of beneficial use is due at each reporting interval or only with the final proof statement.

(5) Any permit holder aggrieved by the decision of the department of water resources regarding its request for extension may request a hearing before the director in accordance with section 42-1701A(3), Idaho Code, for the purpose of contesting the decision and may seek judicial review pursuant to section 42-1701A(4), Idaho Code, of any final decision of the director following the hearing.

(6) Subject to the provisions for reinstatement as provided in section 42-218a, Idaho Code, a permit holder who fails to comply with the provisions of this section within the time or times specified shall be deemed to have relinquished all rights under its permit or, in the case of a permit held by a municipal provider for reasonably anticipated future needs, the permit holder shall be deemed to have relinquished all rights under any portion of the permit that has not previously been licensed or for which an incremental statement of completion showing proof of beneficial use has not been submitted.

(7) The provisions of this section as it becomes effective on July 1, 2021, shall apply to all existing permits pending before the department of water resources on July 1, 2021. Permits pending before the department on July 1, 2021, are entitled to the maximum qualifying extension available pursuant to the provisions of this section regardless of whether the permittee received a prior extension under subsection (3) (f) of this section.

Approved April 9, 2021

CHAPTER 163
(H.B. No. 325)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR FISCAL YEAR 2022; 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 2022; 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 REQUIREMENTS FOR PROGRAM INTEGRITY; CLARIFYING THE RESPONSIBILITY FOR THE EDUCATION OF CERTAIN CHILDREN IN STATE CARE; DIRECTING THE USE OF CHILD ABUSE PROTECTION TREATMENT ACT FUNDS; 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 programs and expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CHILD WELFARE:				
A. CHILD WELFARE:				
FROM:				
Cooperative Welfare (General)				
Fund	\$10,928,400	\$1,677,900		\$12,606,300
Cooperative Welfare (Dedicated)				
Fund	73,500	20,000		93,500
Cooperative Welfare (Federal)				
Fund	<u>22,542,700</u>	<u>5,837,000</u>		<u>28,379,700</u>
TOTAL	\$33,544,600	\$7,534,900		\$41,079,500
B. FOSTER & ASSISTANCE PAYMENTS:				
FROM:				
Cooperative Welfare (General)				
Fund			\$15,879,000	\$15,879,000
Cooperative Welfare (Dedicated)				
Fund			150,000	150,000
Cooperative Welfare (Federal)				
Fund			<u>25,244,100</u>	<u>25,244,100</u>
TOTAL			\$41,273,100	\$41,273,100
DIVISION TOTAL	\$33,544,600	\$7,534,900	\$41,273,100	\$82,352,600
II. SERVICES FOR THE DEVELOPMENTALLY DISABLED:				
A. COMMUNITY DEVELOPMENTAL DISABILITY SERVICES:				
FROM:				
Cooperative Welfare (General)				
Fund	\$8,006,100	\$897,800	\$2,419,800	\$11,323,700
Cooperative Welfare (Dedicated)				
Fund	111,000	46,300	783,100	940,400
Cooperative Welfare (Federal)				
Fund	<u>6,376,700</u>	<u>1,058,000</u>	<u>2,929,100</u>	<u>10,363,800</u>
TOTAL	\$14,493,800	\$2,002,100	\$6,132,000	\$22,627,900
B. SOUTHWEST IDAHO TREATMENT CENTER:				
FROM:				
Cooperative Welfare (General)				
Fund	\$2,116,100	\$471,600	\$78,700	\$2,666,400
Cooperative Welfare (Dedicated)				
Fund	304,700	137,800	10,600	453,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare (Federal)				
Fund	<u>5,539,800</u>	<u>1,619,300</u>	<u>141,800</u>	<u>7,300,900</u>
TOTAL	\$7,960,600	\$2,228,700	\$231,100	\$10,420,400
DIVISION TOTAL	\$22,454,400	\$4,230,800	\$6,363,100	\$33,048,300
III. SERVICE INTEGRATION:				
FROM:				
Cooperative Welfare (General)				
Fund	\$245,700	\$41,300	\$450,000	\$737,000
Cooperative Welfare (Dedicated)				
Fund		19,500	50,000	69,500
Cooperative Welfare (Federal)				
Fund	<u>2,221,000</u>	<u>269,100</u>	<u>2,900,000</u>	<u>5,390,100</u>
TOTAL	\$2,466,700	\$329,900	\$3,400,000	\$6,196,600
GRAND TOTAL	\$58,465,700	\$12,095,600	\$51,036,200	\$121,597,500

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 following number of full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Child Welfare	408.80
Community Developmental Disability Services	181.96
Southwest Idaho Treatment Center	121.75
Service Integration	35.00

SECTION 3. GENERAL FUND TRANSFERS. As appropriated, the Office of the State Controller shall periodically make transfers from the General Fund to the Cooperative Welfare Fund 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 appropriated in the trustee and benefit payments expense class shall not be transferred to any other expense classes during fiscal year 2022.

SECTION 5. PROGRAM INTEGRITY. Notwithstanding any other provision of law to the contrary, 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. EDUCATIONAL NEEDS. The Department of Health and Welfare shall be responsible for the educational needs of school-age children placed in its custody by the courts for either child protective issues or mental

health issues. If the department places a child in a licensed residential treatment facility that includes a nonpublic accredited school and it is determined by the department that it is in the best interests of the child to be educated at the residential treatment facility, then it is the responsibility of the department to pay for such education per student, per educational day. Other Idaho state agencies shall not be precluded 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 section is included within existing department base appropriations.

SECTION 7. CHILD ABUSE PROTECTION TREATMENT ACT FUNDS. Of the amount appropriated in Section 1 of this act from the Cooperative Welfare (Federal) Fund, a minimum of \$42,000 of federal Child Abuse Protection Treatment Act (CAPTA) funds appropriated to the Department of Health and Welfare shall be provided to the Public Health Districts each year. The moneys received by the Public Health Districts shall not be considered general state aid for the purpose of Section 39-425, Idaho Code, nor shall the moneys be allocated through a board of trustees formula pursuant to Section 39-411, Idaho Code. Funds for each public health district shall be distributed at one-seventh (1/7) of the total amount, which shall be used for the Citizen Review Panels pursuant to Section 16-1647, Idaho Code.

SECTION 8. HEAD START APPROPRIATION FROM TEMPORARY ASSISTANCE FOR NEEDY FAMILIES FUNDS. At a minimum, the Department of Health and Welfare shall maintain the Head Start Program appropriations paid from federal Temporary Assistance for Needy Families funds at the same level as fiscal year 2007.

Approved April 9, 2021

CHAPTER 164
(S.B. No. 1035)

AN ACT

RELATING TO THE STATE APPELLATE PUBLIC DEFENDER ACT; REPEALING SECTIONS 19-867 THROUGH 19-872, IDAHO CODE, RELATING TO THE STATE APPELLATE PUBLIC DEFENDER ACT; AMENDING TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 59, TITLE 19, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO PROVIDE FOR THE CREATION OF THE OFFICE OF STATE APPELLATE PUBLIC DEFENDER, TO PROVIDE FOR THE APPOINTMENT, QUALIFICATIONS, TERM, AND COMPENSATION OF THE STATE APPELLATE PUBLIC DEFENDER, TO PROVIDE FOR POWERS AND DUTIES, TO AUTHORIZE APPOINTMENT OF ADDITIONAL COUNSEL IN CERTAIN INSTANCES, AND TO PROVIDE FOR AN ANNUAL REPORT; AND AMENDING SECTION 19-863A, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Sections 19-867 through 19-872, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 59, Title 19, Idaho Code, and to read as follows:

CHAPTER 59
STATE APPELLATE PUBLIC DEFENDER ACT

19-5901. SHORT TITLE. This chapter shall be known and may be cited as the "State Appellate Public Defender Act."

19-5902. LEGISLATIVE INTENT. The legislature recognizes that the cost of legal representation of indigent defendants upon the appeal of their criminal convictions, particularly convictions for first-degree murder, is an extraordinary burden on the counties of this state. In order to reduce this burden and provide competent counsel, but avoid paying high hourly rates to independent counsel to represent indigent defendants in appellate proceedings, the legislature finds it necessary to create the office of the state appellate public defender.

19-5903. CREATION OF OFFICE. The office of state appellate public defender is hereby created in the department of self-governing agencies.

19-5904. APPOINTMENT -- QUALIFICATIONS -- TERM -- COMPENSATION. (1) The state appellate public defender shall be appointed by the governor, with the advice and consent of the senate.

(2) The state appellate public defender shall be an attorney licensed to practice law in the state of Idaho and shall have a minimum of five (5) years' experience as a practicing attorney. The governor may prescribe such further qualifications as he deems necessary for the position.

(3) The state appellate public defender shall serve for a term of four (4) years, during which term he may be removed only for good cause, and shall be compensated in an amount determined by the governor.

(4) The state appellate public defender may adopt policies or rules necessary to give effect to the purposes of this chapter.

19-5905. 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 the following cases:

(a) Appeals from convictions or post-judgment orders in district court;

(b) Interlocutory criminal appeals from district court;

(c) Appeals from the district court of misdemeanor cases where the notice of appeal was filed on or after October 1, 2020;

(d) Appeals from the district court of orders or final judgments affecting a juvenile offender under the juvenile corrections act, chapter 5, title 20, Idaho Code, where the order or final judgment was entered on or after October 1, 2020;

(e) 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;

(f) Appeals from the district court in habeas corpus proceedings brought pursuant to chapter 42, title 19, Idaho Code; and

(g) Post-conviction relief proceedings in district court in capital cases.

(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. 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. The state appellate public defender shall fix the compensation of all employees of the office and they shall serve at his pleasure.

(4) 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.

(5) 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.

(6) The state appellate public defender shall have any and all other powers and duties necessary to carry out the purposes of this chapter, including the authority to promulgate rules in accordance with the provisions of chapter 52, title 67, Idaho Code.

19-5906. APPOINTMENT OF ADDITIONAL COUNSEL. Should the state appellate public defender be unable to carry out the duties required in this chapter because of a conflict of interest or any other reason, the state appellate public defender shall arrange for counsel for indigent defendants to be compensated out of the budget of the state appellate public defender.

19-5907. ANNUAL REPORT. The state appellate public defender shall make an annual report to the state board of examiners, the supreme court, the legislature, and all counties for which the office has provided services concerning the cases handled by the office during the preceding year.

SECTION 3. That Section 19-863A, Idaho Code, be, and the same is hereby amended to read as follows:

19-863A. CAPITAL CRIMES DEFENSE FUND AUTHORIZED. (1) The establishment of a capital crimes defense fund by the counties of the state for purposes of funding the costs of criminal defense in cases where the penalty of death is a legal possibility is hereby authorized. The fund shall be organized and operated in accordance with a joint powers agreement, as authorized by chapter 23, title 67, Idaho Code, executed by the participating counties. Membership in the fund shall be voluntary, as determined by resolution of the board of county commissioners of the respective counties of the state.

(2) The fund may be comprised of contributions from participating counties and any court fees or other funds designated or appropriated for deposit in the fund by the legislature.

(3) The fund shall be operated and administered by a board of representatives to be selected as provided in the joint powers agreement. If moneys are appropriated to the fund by the legislature, the governor shall appoint a representative of the executive branch of state government to serve as a voting member of the governing board, and if court fees are designated for deposit in the fund, the Idaho supreme court shall appoint a representative of the judicial branch of state government to serve as a voting member of the board.

(4) The governing board of the fund shall have full authority to employ personnel and contract for personal and professional services as necessary and may take all other steps necessary or proper to determine the manner in which the fund shall be utilized to assist participating counties in meeting defense costs associated with representation of indigent defendants charged with crimes for which the penalty of death is a legal possibility.

(5) The services of the state appellate public defender as provided in ~~section 19-870~~ chapter 59, title 19, Idaho Code, shall be available only to those counties participating in the fund.

Approved April 9, 2021

CHAPTER 165
(S.B. No. 1058)

AN ACT

RELATING TO PUBLIC LIBRARIES; AMENDING SECTION 33-2604, IDAHO CODE, TO PROVIDE THAT CERTAIN PERSONS SHALL NOT BE AN APPOINTED TRUSTEE OF A LIBRARY BOARD AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 33-2608, IDAHO CODE, TO REVISE A PROVISION REGARDING THE HIRING OF LIBRARY EMPLOYEES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-2604, Idaho Code, be, and the same is hereby amended to read as follows:

33-2604. BOARD OF TRUSTEES -- APPOINTMENT -- TERM OF OFFICE -- COMPENSATION. (1) For the government of such library there shall be a board of five (5) library trustees appointed by the mayor and council pursuant to section 50-210, Idaho Code, from among city residents. If the city government is organized pursuant to sections 50-801 through 50-813, Idaho Code, the city manager and the council shall appoint the board of trustees.

(2) Appointment to the board shall be made solely upon consideration of the ability of such appointees to serve the interests of the people, without regard to sex, age, race, nationality, religion, disability or political affiliation. A member of the city council, a mayor, or an appointed officer of the city shall not be one (1) of the five (5) appointed trustees of the library board, but each year the council shall appoint one (1) of its members to be a liaison to the board, without voting rights.

(3) The initial appointment of trustees shall be for terms of one (1), two (2), three (3), four (4) and five (5) years respectively. Subsequent appointments shall be made for five (5) years from the date of appointment, and until their successors are appointed.

(4) Members of the board shall serve without salary but may receive their actual and necessary budgeted expenses while engaged in authorized business of the library.

SECTION 2. That Section 33-2608, Idaho Code, be, and the same is hereby amended to read as follows:

33-2608. LIBRARY DIRECTOR -- DUTIES -- OTHER EMPLOYEES. (1) The board of trustees of each city library shall appoint the library director, who shall serve at the pleasure of the board. The library director shall advise the board, implement policy set by the board, supervise all library staff and shall acquire library materials, equipment and supplies. The library director shall attend all board meetings but shall not vote.

(2) With the recommendation of the library director, the board shall budget to hire other employees as may be necessary for the operation of the library in accordance with city policies and procedures. The library director shall hire or oversee the hiring of all other employees based on the policies, procedures, and job descriptions of the city. These employees shall be employees of the city and subject to the city's personnel policies and classifications unless otherwise provided by city ordinance.

Approved April 9, 2021

CHAPTER 166
(S.B. No. 1076)

AN ACT

RELATING TO JOURNALS AND SESSION LAWS; AMENDING SECTION 67-509, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE PUBLICATION AND DISTRIBUTION OF JOURNALS AND THE PRINTING AND PRESERVING OF SESSION LAWS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 67-509, Idaho Code, be, and the same is hereby amended to read as follows:

67-509. PUBLICATION OF LEGISLATIVE JOURNALS AND SESSION LAWS -- DISTRIBUTION AND REPORT. (1) On the first legislative day or as soon thereafter as the speaker shall have been elected, it shall be the duty of the president of the senate and the speaker of the house of representatives each to appoint a printing committee for his body whose duties shall be, in addition to its duties prescribed by the rules of said bodies respectively, to immediately meet in joint session and to provide for the publication and distribution of the journals of the two (2) houses of the legislature. ~~Said committee shall determine the form of the journals to be used, the size of the type, the number to be distributed to each member of the legislature and the method of distribution, the number of journals to be made available for sale through the secretary of state's office, and the manner in which the journals are to be bound for the permanent copies of the journal.~~ All costs incurred in publishing the journals shall be a proper charge against the legislative fund account, unless an appropriation for such purpose has been made.

(2) The joint printing committee of the senate and house of representatives shall exist to print, publish, and distribute the session laws. The joint printing committee will consist of the printing committees of each house. The chairmen of the respective judiciary and rules committees, or their designee, will chair their house's printing committee and cochair the joint printing committee.

(3) Prior to the final adjournment of a the first regular legislative session, the joint printing committee must meet and determine the proper method of printing and preserving the session laws of that the first and second regular legislative session. The committee may also meet if it deems it necessary during the second regular session. If the recommendation from the meeting during the first regular legislative session changes during a meeting of the second regular legislative session, a new report as provided in subsection (5) of this section must be submitted for consideration. The joint printing committee must give consideration to the cost, accessibility, and preservation of the session laws. The joint printing committee will provide sufficient physical copies of session laws.

(4) The published session laws must include the bills, concurrent resolutions, joint resolutions, petitions and memorials enacted or adopted during the legislative session. In addition, the session laws must include amendments to the constitution adopted at the preceding general election, and bills, concurrent resolutions, joint resolutions, and memorials enacted or adopted during an intervening extraordinary session of the legislature. The published session laws must include a title page, a table of contents, certificate pages, tables of amended and repealed statutes, an index of contents, and a list of each member of the senate and house of representatives.

(5) Prior to the final adjournment of a the first regular legislative session, the printing committee of each house must meet jointly to consider the proper method to print and preserve the session laws. The joint printing committee will prepare a brief written report of its recommendations, which written report must be delivered to the judiciary and rules committees of the senate and the house of representatives. The written report must include the projected cost to implement its recommendation, together with a distribution list of persons that will be provided printed volume(s) of the session laws. If the written or amended report is rejected by the legislature by concurrent resolution, the joint printing committee will meet to reconsider its recommendations. If the written or amended report is not rejected, the joint printing committee will enter into an agreement(s) that is substantially consistent with its written or amended report to print, publish, and deliver the session laws, which costs will be paid from the legislative account.

Approved April 9, 2021

CHAPTER 167
(S.B. No. 1078)

AN ACT

RELATING TO COUNTY RECORDERS; AMENDING SECTION 31-2402, IDAHO CODE, TO PROVIDE FOR THE RECORDING OF DEATH CERTIFICATES, TO CLARIFY THAT CERTAIN DOCUMENTS MUST BE RECORDED, AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 31-2402, Idaho Code, be, and the same is hereby amended to read as follows:

31-2402. INSTRUMENTS TO BE RECORDED. (1) He must, upon the payment of his fees for the same, record separately, in large and well-bound separate books or through approved electronic storage systems, in legible handwriting, typewriting or by photographic reproduction:

- (a) Deeds, grants, transfers and mortgages of real estate, releases of mortgages, powers of attorney to convey real estate and leases which have been acknowledged or proved and transcripts of judgments or decrees which affect the title or possession of real property, including water rights, any part of which is situate in the county of which the person is the recorder.
- (b) Certificates of marriage and marriage contracts.
- (c) Wills admitted to probate.
- (d) Official bonds.
- (e) Notices of mechanics' liens.
- (f) Transcripts of judgments which by law are made liens upon real estate.
- (g) Notices of attachments upon real estate.

(h) Notices of the pendency of an action affecting real estate, the title thereto or possession thereof.

(i) Instruments describing or relating to the separate property of married women.

(j) Notices of preemption claims.

(k) Certified copies of any petitions, with the schedules omitted, filled filed in, and certified copies of any order or decree made or entered in, any proceeding under the national bankruptcy act.

(l) Financing statements under the uniform commercial code which cover timber to be cut, minerals or the like (including oil and gas), pursuant to section 28-9-301, Idaho Code, or fixtures.

(m) Notice of order of a general adjudication in conformance with section 42-1408, Idaho Code.

(n) Death certificates.

(o) Such other writings as are required or permitted by law to be recorded, as determined by the recorder.

(2) The recorder may refuse to record any a document which, in his discretion and through consultation with the county prosecutor, is not authorized by law to be recorded, provided that a document listed in subsection (1) (a) through (n) of this section is authorized by law and must be recorded. Refusal pursuant to this section shall not create any liability.

Approved April 9, 2021

CHAPTER 168
(S.B. No. 1104)

AN ACT

RELATING TO RULES OF THE ROAD; AMENDING SECTION 49-614, IDAHO CODE, TO PROVIDE FOR ON-TRACK EQUIPMENT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-648, IDAHO CODE, TO PROVIDE FOR ON-TRACK EQUIPMENT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-649, IDAHO CODE, TO PROVIDE FOR ON-TRACK EQUIPMENT AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 49-650, IDAHO CODE, TO PROVIDE FOR ON-TRACK EQUIPMENT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 49-614, Idaho Code, be, and the same is hereby amended to read as follows:

49-614. STOP WHEN TRAFFIC OBSTRUCTED. No driver shall enter an intersection, or a marked crosswalk, or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk, or railroad grade crossing to accommodate the vehicle he is operating without obstructing the passage of other vehicles, pedestrians, or ~~or~~ railroad trains, or other on-track equipment, regardless of any traffic control signal indication to proceed.

SECTION 2. That Section 49-648, Idaho Code, be, and the same is hereby amended to read as follows:

49-648. OBEDIENCE TO SIGNAL INDICATING APPROACH OF TRAIN OR OTHER ON-TRACK EQUIPMENT. (1) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of the railroad, and shall not proceed until he can do so safely. These requirements shall apply when:

- (a) A stop sign is in place and there is an absence of any mechanical warning signals;
 - (b) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train or other on-track equipment;
 - (c) A crossing gate is lowered or when a flagman gives or continues to give a signal of the approach or passage of a railroad train or other on-track equipment;
 - (d) A railroad train or other on-track equipment approaching within approximately fifteen one thousand five hundred (1,500) feet of the highway crossing emits a signal audible from that distance and the railroad train or other on-track equipment, by reason of its speed or nearness to the crossing, is an immediate hazard;
 - (e) An approaching railroad train or other on-track equipment is plainly visible and is in hazardous proximity to the crossing.
- (2) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed.

SECTION 3. That Section 49-649, Idaho Code, be, and the same is hereby amended to read as follows:

49-649. COMPLIANCE WITH STOPPING REQUIREMENT AT ALL RAILROAD GRADE CROSSINGS. (1) The driver of any vehicle stopped at a railroad grade crossing shall listen and look in both directions along the track for any approaching train, or other on-track equipment and for signals indicating the approach of a train or other on-track equipment and shall not proceed until he can do so safely. Upon proceeding when it is safe to do so the driver shall cross only in a gear of the vehicle in order that there will be no necessity for manually changing gears while traversing the crossing, and the driver shall not manually shift gears while crossing the tracks.

(2) This section shall not apply at:

- (a) Any railroad grade crossing at which traffic is controlled by a peace officer or flagman;
- (b) Any railroad grade crossing at which traffic is regulated by a ~~traffic-control~~ traffic control signal;
- (c) Any railroad grade crossing protected by crossing gates or an alternately flashing light signal intended to give warning of the approach of a railroad train or other on-track equipment; or
- (d) Any railroad grade crossing at which a ~~traffic-control~~ traffic control device gives notice that the stopping requirement imposed by this section does not apply.

SECTION 4. That Section 49-650, Idaho Code, be, and the same is hereby amended to read as follows:

49-650. MOVING HEAVY EQUIPMENT AT RAILROAD GRADE CROSSINGS. (1) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of ten (10) or less miles per hour or a vertical body or load clearance of less than one-half (1/2) inch per foot of the distance between any two (2) adjacent axles or, in any event, of less than nine (9) inches, measured above the level surface of a highway, upon or across any tracks at a railroad grade crossing without first complying with this section.

(2) Notice of intended crossing shall be given to a station agent of the railroad and a reasonable time be given to the railroad to provide proper protection at the crossing.

(3) Before making the crossing, the person operating or moving the vehicle or equipment shall first stop not less than fifteen (15) feet nor more than fifty (50) feet from the nearest rail of the railroad and while so stopped shall listen and look in both directions along the track for any approaching train or other on-track equipment or for signals indicating the approach of a train, or other on-track equipment and shall not proceed until the crossing can be made safely.

(4) No crossing shall be made when warning is given by automatic signal, crossing gates, a flagman, or otherwise of the immediate approach of a railroad train, or car, or other on-track equipment. If a flagman is provided by the railroad, movement over the crossing shall be under his direction.

Approved April 9, 2021

CHAPTER 169
(S.B. No. 1123)

AN ACT

RELATING TO LAVA HOT SPRINGS; AMENDING SECTION 67-4405, IDAHO CODE, TO PROVIDE THAT MONEYS IN THE LAVA HOT SPRINGS FOUNDATION FUND SHALL BE CONTINUOUSLY APPROPRIATED AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-4408, IDAHO CODE, TO PROVIDE FOR CONTINUOUS APPROPRIATION FOR OPERATION WHEN NOT LEASED, TO REVISE A CODE REFERENCE, AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 67-4409, IDAHO CODE, TO PROVIDE THAT THE LAVA HOT SPRINGS CAPITAL IMPROVEMENT ACCOUNT SHALL BE CONTINUOUSLY APPROPRIATED AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-4405, Idaho Code, be, and the same is hereby amended to read as follows:

67-4405. RECEIPTS AND APPROPRIATION INURING TO USE OF FOUNDATION. The entire receipts of and from any source whatsoever that may inure to the benefit of the said foundation through its operation of the said property, bathing facilities, pleasure resort, hospital or sanitarium and the rents and royalties accruing from any mineral lease that shall be made of foundation lands shall be deposited in the Lava Hot Springs Foundation fund, and all moneys now in or hereafter deposited in such fund are hereby continuously appropriated for the use and benefit of the said Foundation.

SECTION 2. That Section 67-4408, Idaho Code, be, and the same is hereby amended to read as follows:

67-4408. APPROPRIATION FOR OPERATION WHEN NOT LEASED. There is hereby continuously appropriated out of the Lava Hot Springs account the entire receipts of and from any sources whatsoever that may hereafter inure to the benefit of the Lava Hot Springs Foundation through its operation of the property of the said foundation, bathing facilities, pleasure resort, hospital or sanitarium. The foundation may also expend any other moneys that may be appropriated, donated, bequeathed or granted for the use of the foundation. ~~Provided,~~ provided that the appropriation herein made shall not be effective or the funds appropriated available during any period when the provisions of the Lava Hot Springs Foundation Act, Chapter 5 of the 1935 Session Laws, amendatory of Chapter 41, Title 65, Idaho Code Annotated, sections 67-4401 through 67-4405, Idaho Code, shall be suspended as herein provided.

SECTION 3. That Section 67-4409, Idaho Code, be, and the same is hereby amended to read as follows:

67-4409. LAVA HOT SPRINGS CAPITAL IMPROVEMENT ACCOUNT. There is hereby created and established in the agency asset fund in the state treasury an continuously appropriated account to be known as the Lava Hot Springs capital improvement account to which shall be credited or deposited such moneys and interest accruing over and above the operation and maintenance cost from the Lava Hot Springs Foundation account, as the members of the Foundation may from time to time determine. The purposes for which moneys in the account may be used shall be to acquire, purchase, improve, repair, furnish, and equip Lava Hot Springs facilities and sites. All claims against the account shall be examined, audited and allowed in the same manner now or hereafter provided by law for claims against the state. This account shall be invested by the state treasurer in investments permitted by section 67-1210, Idaho Code, and the interest shall be returned to the account.

Approved April 9, 2021

CHAPTER 170
(S.B. No. 1172)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF ADMINISTRATION FOR THE DIVISION OF PUBLIC WORKS FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE DIVISION OF PUBLIC WORKS FOR FISCAL YEAR 2022; AUTHORIZING AND DIRECTING THE ALLOCATION OF FUNDS FOR SPECIFIC PROJECTS FOR FISCAL YEAR 2022; PROVIDING REQUIREMENTS FOR UTILIZATION OF MATCHING FUNDS; PROVIDING REQUIREMENTS REGARDING REALLOCATION OF PROJECT SAVINGS; PROVIDING REAPPROPRIATION AUTHORITY; PROVIDING REQUIREMENTS FOR THE USE OF PERMANENT BUILDING FUNDS FOR SPECIFIC PROJECTS; AND APPROPRIATING AND TRANSFERRING MONEYS FROM THE GENERAL FUND TO THE PERMANENT BUILDING FUND.

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

SECTION 1. There is hereby appropriated to the Department of Administration for the Division of Public Works \$35,035,800 to be expended for capital outlay from the Permanent Building Fund for the period July 1, 2021, through June 30, 2022.

SECTION 2. ALLOCATION OF FUNDS FOR SPECIFIC PROJECTS. Moneys appropriated in Section 1 of this act, or so much thereof as in each case may be necessary, shall be used for the purpose of paying the cost of any land, building, or equipment, or for the rebuilding, renovation, or repair of buildings, installations, facilities, or structures, at the places, institutions, and agencies, or their successors, including those listed in this section. The Permanent Building Fund Advisory Council is hereby authorized and directed to anticipate revenues accruing to the Permanent Building Fund for the purpose of undertaking the construction, renovation, repair, and acquisitions therein authorized, without delay, and to determine the priority of construction pursuant to which the work hereunder will be undertaken.

MAINTENANCE PROJECTS IN THE FOLLOWING AREAS:

Alteration and Repair Projects	\$14,218,800
Asbestos Abatement	500,000
Statewide Americans with Disabilities Act Compliance	1,300,000
Chinden Facilities Maintenance	1,380,000
Capitol Mall Maintenance	<u>1,207,400</u>
TOTAL	\$18,606,200

CAPITAL PROJECTS:

ISP Facility Design - Idaho Falls	\$800,000
IDJC Facility - St. Anthony	3,200,000
Military Readiness Center - Twin Falls	5,429,600
CEI Future Tech Facility	<u>7,000,000</u>
TOTAL	\$16,429,600

GRAND TOTAL \$35,035,800

SECTION 3. UTILIZATION OF MATCHING FUNDS. Moneys appropriated in this act may be made available for matching any allocation of moneys now in existence or hereafter made available by agencies of the United States and/or private donations; and the Division of Public Works is authorized to expend, for the purpose of paying the cost of any land, building, or equipment, or for the rebuilding, renovation, or repair of buildings, moneys appropriated for public works to various agencies as part of the respective agency operating budgets, provided the express approval by the Permanent Building Fund Advisory Council is granted to make application for such moneys in each instance.

SECTION 4. REALLOCATION OF PROJECT SAVINGS. The Division of Public Works may have the flexibility to allocate any savings or unused appropriation from any project to any other requested and funded project. The reallocation of such appropriation must be approved by the Permanent Building Fund Advisory Council prior to the funds being spent.

SECTION 5. REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Division of Public Works any unexpended and unencumbered balances appropriated or reappropriated to the Division of Public Works from the Permanent Building Fund for fiscal year 2021, to be used for nonrecurring expenditures for the period July 1, 2021, through June 30, 2022. The Office of the State Controller shall confirm the reappropriation amount, by fund, expense class, and program, with the Legislative Services Office prior to processing the reappropriation authorized herein.

SECTION 6. USE OF PERMANENT BUILDING FUNDS FOR SPECIFIC PROJECTS. Of the amount appropriated in Section 1 of this act, \$7,000,000 for the College of Eastern Idaho in the Permanent Building Fund may be expended only after the College of Eastern Idaho president has secured pledges for funding equaling \$7,000,000 for the Future Tech Facility. Verification of such pledges shall be confirmed by a signed attestation letter from the president of the College of Eastern Idaho to the Division of Public Works in the Department of Administration.

SECTION 7. CASH TRANSFER. There is hereby appropriated and the Office of the State Controller shall transfer \$7,000,000 from the General Fund to the Permanent Building Fund on July 1, 2021, or as soon thereafter as practicable, for the period July 1, 2021, through June 30, 2022.

Approved April 9, 2021

CHAPTER 171
(H.B. No. 129)

AN ACT

RELATING TO OFF-HIGHWAY VEHICLES; AMENDING SECTION 49-116, IDAHO CODE, TO DEFINE A TERM AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 49-426, IDAHO CODE, RELATING TO EXEMPTIONS FROM OPERATING FEES; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-426, IDAHO CODE, TO PROVIDE FOR EXEMPTIONS FROM OPERATING FEES; AND AMENDING SECTION 49-421, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Section 49-116, Idaho Code, be, and the same is hereby amended to read as follows:

49-116. DEFINITIONS -- O. (1) "Off-highway vehicle" or "OHV" means an off-highway vehicle as defined in section 67-7101, Idaho Code.

(2) "Operator" means every person who is in actual physical control of a motor vehicle upon a highway or private property open to public use.

(23) "Out-of-service order" means a temporary prohibition against operating a commercial vehicle as declared by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction and which is applicable to a driver, a commercial motor vehicle, or a motor carrier operation pursuant to federal regulations 49 CFR ~~part~~ 386.72, 392.5, 395.13, or 396.9, or compatible laws, or to the North American uniform out-of-service criteria.

(34) "Owner" means a person, other than a lienholder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security. "Owner," for the purposes of chapter 12, title 49, Idaho Code, means the person legally responsible for the operation of a vehicle upon the highways of the state of Idaho, whether as owner, lessee, or otherwise.

SECTION 2. That Section 49-426, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-426, Idaho Code, and to read as follows:

49-426. EXEMPTIONS FROM OPERATING FEES. The provisions of this chapter with respect to operating fees must not apply to:

(1) Motor vehicles owned or leased by the United States, the state, a city, a county, any department thereof, any political subdivision or municipal corporation of the state, any taxing district of the state, any state registered nonprofit subscription fire protection unit, or any organization, whether incorporated or unincorporated, organized for the operation,

maintenance, or management of an irrigation project or irrigation works or system or for the purpose of furnishing water to its members or shareholders, but in other respects the provisions of this chapter are applicable.

(2) Farm tractors, implements of husbandry, manufactured homes that qualify for an exemption under the provisions of section 49-422, Idaho Code, road rollers, wheel-mounted tar buckets, portable concrete or mortar mixers, wheel-mounted compressors, tow dollies, portable toilet trailers, street sweepers, other construction equipment, forestry equipment, lawn and grounds equipment, and similar devices as determined by the department that are temporarily operated or moved upon the highways need not be registered under the provisions of this chapter, nor will implements of husbandry be considered towed units under registration of vehicle combinations as defined in section 49-108(2), Idaho Code. In addition, self-propelled wheelchairs, three-wheeled bicycles, wheelchair conveyances, golf carts, lawn mowers, and scooters operated by persons who by reason of physical disability are otherwise unable to move about as pedestrians are exempt from registration requirements under the provisions of this chapter. Motorcycles and off-highway vehicles need not be licensed under the provisions of this chapter or numbered pursuant to the provisions of sections 67-7122 and 67-7124, Idaho Code, if they are being used exclusively in connection with agricultural, horticultural, dairy and livestock growing and feeding operations, or used exclusively for snow removal purposes. Travel upon the public highways must be limited to travel between farm or ranch locations. Motorcycles and off-highway vehicles used for this purpose must meet the emblem requirements of section 49-619, Idaho Code.

(3) Off-highway vehicles licensed pursuant to this chapter and numbered pursuant to section 67-7122 or 67-7124, Idaho Code, and those vehicles exempt from licensing and numbering pursuant to subsection (2) of this section are permitted to operate on:

(a) All highways that are not state highways and that are not interstate highways;

(b) Any non-full access-controlled state highway within the boundaries of a municipality and extending one (1) mile from such boundary lines where the posted speed limit is sixty (60) miles per hour or less; and

(c) Any non-full access-controlled state highway outside of municipalities where the posted speed limit is sixty (60) miles per hour or less for continuous distances of no more than five (5) miles for the limited purpose of connecting between OHV trails, obtaining access to or from an OHV trail, or to access necessary services such as fuel, lodging, food and beverage, and maintenance.

(4) Off-highway vehicles licensed pursuant to this chapter and numbered pursuant to section 67-7122 or 67-7124, Idaho Code, and those vehicles exempt from licensing and numbering pursuant to subsection (2) of this section must be permitted to cross a highway, except interstate highways and full access-controlled state highways, at a public road intersection and at any point where an OHV trail intersects, provided the vehicle comes to a full and complete stop before making the crossing and yields to any highway traffic.

(5) The operation of off-highway vehicles licensed pursuant to this chapter and numbered pursuant to section 67-7122 or 67-7124, Idaho Code, and those vehicles exempt from licensing and numbering pursuant to subsection (2) of this section are not permitted on interstate highways and full access-controlled state highways, provided that the Idaho transportation board may designate sections of such state highways upon which off-highway vehicles may travel.

(6) The Idaho transportation board may, after sufficient public notice is given and a public hearing held, designate sections of state highways that are closed or limited to off-highway vehicle use. The Idaho transportation board must deliver written notice to the director of the Idaho department of parks and recreation at least thirty (30) days before the public hearing and must accept and consider any comment from the director of the Idaho department of parks and recreation received within the thirty (30) day period or at the public hearing.

(7) Any political subdivision of the state of Idaho may, but only after sufficient public notice is given and a public hearing held, adopt local ordinances or resolutions designating highways or sections of highways under its jurisdiction that are closed or limited to off-highway vehicle use. Notice of any such public hearing must be delivered in writing at least thirty (30) days in advance to the director of the Idaho department of parks and recreation. A political subdivision must accept and consider any comment from the director of the Idaho department of parks and recreation received within the thirty (30) day period or at the public hearing.

(8) When operating an off-highway vehicle upon highways, off-highway vehicles must not travel at speeds greater than the posted speed limit or forty-five (45) miles per hour, whichever is less.

(9) The requirements of title 18 and chapters 2, 3, 6, 8, 12, 13, and 14, title 49, Idaho Code, apply to the operation of off-highway vehicles upon highways.

(10) Off-highway vehicles may be used on highways located on state lands or federal lands that are not part of the highway system of the state of Idaho, provided the numbering requirements of section 67-7122 or 67-7124, Idaho Code, are met.

SECTION 4. That Section 49-421, Idaho Code, be, and the same is hereby amended to read as follows:

49-421. REGISTRATION CARDS. (1) Upon the registration of a vehicle, the registering agency shall issue to the owner, as defined in section 49-116(34), Idaho Code, a registration card that shall contain the date issued, the registration number assigned the owner and to the vehicle, the name and address of the owner, a description of the registered vehicle, identification number, and any other information the department may require.

(2) The owner, upon receiving a registration card, shall validate proof of compliance with the insurance requirements of section 49-1229, Idaho Code.

(3) Upon a change of address, the registrant shall report such change to the county assessor or the department within thirty (30) days following the change of address.

(4) It is an infraction for any person to fail to notify the department of a change of address as required by the provisions of subsection (3) of this section.

Approved April 13, 2021

CHAPTER 172
(S.B. No. 1089, As Amended)

AN ACT

RELATING TO RAPE; AMENDING SECTION 18-6101, IDAHO CODE, TO REVISE A PROVISION REGARDING RAPE WHERE THE VICTIM IS UNDER THE AGE OF SIXTEEN AND TO REVISE A PROVISION REGARDING RAPE WHERE THE VICTIM IS SIXTEEN OR SEVENTEEN YEARS OF AGE; AND REPEALING SECTION 18-6107, IDAHO CODE, RELATING TO RAPE OF A SPOUSE.

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

SECTION 1. That Section 18-6101, Idaho Code, be, and the same is hereby amended to read as follows:

18-6101. RAPE DEFINED. Rape is defined as the penetration, however slight, of the oral, anal or vaginal opening with a penis accomplished under any one (1) of the following circumstances:

(1) Where the victim is under the age of sixteen (16) years and, the perpetrator is eighteen (18) years of age or older, and the victim is not lawfully married to the perpetrator.

(2) Where the victim is sixteen (16) or seventeen (17) years of age and, the perpetrator is three (3) years or more older than the victim, and the victim is not lawfully married to the perpetrator.

(3) Where the victim is incapable, through any unsoundness of mind, due to any cause including, but not limited to, mental illness, mental disability or developmental disability, whether temporary or permanent, of giving legal consent.

(4) Where the victim resists but the resistance is overcome by force or violence.

(5) Where the victim is prevented from resistance by the infliction, attempted infliction, or threatened infliction of bodily harm, accompanied by apparent power of execution; or is unable to resist due to any intoxicating, narcotic, or anaesthetic substance.

(6) Where the victim is prevented from resistance due to an objectively reasonable belief that resistance would be futile or that resistance would result in force or violence beyond that necessary to accomplish the prohibited contact.

(7) Where the victim is at the time unconscious of the nature of the act. As used in this section, "unconscious of the nature of the act" means incapable of resisting because the victim meets one (1) of the following conditions:

(a) Was unconscious or asleep;

(b) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(8) Where the victim submits under the belief that the person committing the act is the victim's spouse, and the belief is induced by artifice, pretense or concealment practiced by the accused, with intent to induce such belief.

(9) Where the victim submits under the belief that the person committing the act is someone other than the accused, and the belief is induced by artifice, pretense or concealment practiced by the accused, with the intent to induce such belief.

(10) Where the victim submits under the belief, instilled by the actor, that if the victim does not submit, the actor will cause physical harm to some person in the future; or cause damage to property; or engage in other conduct constituting a crime; or accuse any person of a crime or cause criminal charges to be instituted against the victim; or expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt or ridicule.

The provisions of subsections (1) and (2) of this section shall not affect the age requirements in any other provision of law, unless otherwise provided in any such law. Further, for the purposes of subsection (2) of this section, in determining whether the perpetrator is three (3) years or more older than the victim, the difference in age shall be measured from the date of birth of the perpetrator to the date of birth of the victim.

Males and females are both capable of committing the crime of rape as defined in this section.

SECTION 2. That Section 18-6107, Idaho Code, be, and the same is hereby repealed.

Approved April 13, 2021

CHAPTER 173
(S.B. No. 1160)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 2022; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; EXEMPTING THE APPROPRIATION FROM OBJECT TRANSFER LIMITATIONS; AND APPROPRIATING AND TRANSFERRING MONEYS FROM THE GENERAL FUND TO THE FIRE SUPPRESSION DEFICIENCY FUND.

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

SECTION 1. There is hereby appropriated to the Department of Lands the following amounts to be expended according to the designated programs and expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. BUSINESS SERVICES:					
FROM:					
General					
Fund	\$437,900	\$282,600			\$720,500
Department of Lands					
Fund	732,200	414,600	\$108,200		1,255,000
Indirect Cost Recovery					
Fund	71,900	128,300			200,200
Endowment Earnings Administrative					
Fund	<u>3,167,700</u>	<u>1,721,600</u>	<u>252,100</u>		<u>5,141,400</u>
TOTAL	\$4,409,700	\$2,547,100	\$360,300		\$7,317,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. FOREST RESOURCES MANAGEMENT:					
FROM:					
General					
Fund	\$1,314,100	\$717,300	\$90,000	\$20,000	\$2,141,400
Department of Lands					
Fund	2,090,600	2,950,800		1,500,000	6,541,400
Indirect Cost Recovery					
Fund	118,900	320,200			439,100
Endowment Earnings Administrative					
Fund	146,800	84,300	50,000		281,100
Community Forestry					
Fund		20,000		20,000	40,000
Federal Grant					
Fund	<u>1,209,100</u>	<u>3,334,500</u>	<u>0</u>	<u>2,915,400</u>	<u>7,459,000</u>
TOTAL	\$4,879,500	\$7,427,100	\$140,000	\$4,455,400	\$16,902,000
III. TRUST LAND MANAGEMENT:					
FROM:					
General					
Fund	\$125,400	\$1,900			\$127,300
Department of Lands					
Fund	220,600	277,000			497,600
Endowment Earnings Administrative					
Fund	<u>13,949,600</u>	<u>11,261,300</u>	<u>\$627,500</u>		<u>25,838,400</u>
TOTAL	\$14,295,600	\$11,540,200	\$627,500		\$26,463,300
IV. FOREST AND RANGE FIRE PROTECTION:					
FROM:					
General					
Fund	\$2,101,500	\$290,600	\$3,000	\$938,800	\$3,333,900
Department of Lands					
Fund	4,355,500	480,100	1,230,400	873,000	6,939,000
Fire Suppression Deficiency					
Fund	129,500	22,100			151,600
Federal Grant					
Fund	<u>773,600</u>	<u>305,000</u>	<u>0</u>	<u>450,000</u>	<u>1,528,600</u>
TOTAL	\$7,360,100	\$1,097,800	\$1,233,400	\$2,261,800	\$11,953,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
V. SCALING PRACTICES:					
FROM:					
Department of Lands					
Fund	\$290,700	\$57,100			\$347,800
VI. MINERALS, PUBLIC TRUST, OIL AND GAS:					
FROM:					
General					
Fund	\$709,800	\$133,800			\$843,600
Department of Lands					
Fund	317,700	1,267,000			1,584,700
Oil and Gas Conservation					
Fund	120,000	85,100			205,100
Navigable Waterways					
Fund	<u>752,700</u>	<u>91,500</u>			<u>844,200</u>
TOTAL	\$1,900,200	\$1,577,400			\$3,477,600
GRAND TOTAL	\$33,135,800	\$24,246,700	\$2,361,200	\$6,717,200	\$66,460,900

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Lands is authorized no more than three hundred thirty-eight and eighty-two hundredths (338.82) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, 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. The Department of Lands is hereby exempted from the provisions of Section 67-3511(1) and (3), Idaho Code, allowing unlimited transfers between object codes for all moneys appropriated to the Forest and Range Fire Protection Program for the period July 1, 2021, through June 30, 2022. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

SECTION 4. CASH TRANSFER. There is hereby appropriated and the Office of the State Controller shall transfer \$20,000,000 from the General Fund to the Fire Suppression Deficiency Fund on July 1, 2021, or as soon thereafter as practicable for the period July 1, 2021, through June 30, 2022. 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.

Approved April 9, 2021

CHAPTER 174
(S.B. No. 1011)

AN ACT

RELATING TO THE COORDINATE SYSTEM OF LAND DESCRIPTION; AMENDING SECTION 54-1210, IDAHO CODE, TO REMOVE A REPORTING REQUIREMENT AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 55-1701, IDAHO CODE, RELATING TO ESTABLISHING A COORDINATE SYSTEM; AMENDING CHAPTER 17, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-1701, IDAHO CODE, TO DEFINE TERMS; REPEALING SECTION 55-1702, IDAHO CODE, RELATING TO ZONE REFERENCES; AMENDING CHAPTER 17, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-1702, IDAHO CODE, TO PROVIDE FOR THE IDAHO PLANE COORDINATE SYSTEM; REPEALING SECTION 55-1703, IDAHO CODE, RELATING TO PLANE COORDINATES; AMENDING CHAPTER 17, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-1703, IDAHO CODE, TO PROVIDE FOR THE USE OF PLANE COORDINATES; AMENDING SECTION 55-1704, IDAHO CODE, TO PROVIDE FOR ZONE NAMING AND CERTAIN INFORMATION TO BE INCLUDED WITHIN DOCUMENTS CONTAINING COORDINATES; REPEALING SECTION 55-1705, IDAHO CODE, RELATING TO ZONE DEFINITIONS; AMENDING CHAPTER 17, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-1705, IDAHO CODE, TO PROVIDE FOR STATED OR IMPLIED ACCURACY OF COORDINATES; AMENDING CHAPTER 17, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-1706, IDAHO CODE, TO PROVIDE FOR GEODETIC COORDINATES; AMENDING CHAPTER 17, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-1707, IDAHO CODE, TO PROVIDE FOR NONAUTHORITATIVE PLANE OR GEOGRAPHIC COORDINATES; REPEALING SECTION 55-1708, IDAHO CODE, RELATING TO SUPPLEMENTAL COORDINATE DESCRIPTIONS; AMENDING CHAPTER 17, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-1708, IDAHO CODE, TO PROVIDE FOR SUPPLEMENTAL COORDINATE DESCRIPTIONS; AMENDING SECTION 55-1709, IDAHO CODE, TO PROVIDE FOR REAL PROPERTY LESSEES, RIGHTS IN REAL PROPERTY, AND CERTAIN COORDINATES; AND AMENDING CHAPTER 17, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-1710, IDAHO CODE, TO PROVIDE FOR CERTAIN MODIFIED COORDINATES.

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

SECTION 1. That Section 54-1210, Idaho Code, be, and the same is hereby amended to read as follows:

54-1210. RECORDS AND REPORTS. (1) The board shall keep a record of its proceedings and a record of all applications for licensure or certification, which record shall show: the name, date of birth and last known address of each applicant; the date of the application; the place of business of such applicant; his education, experience and other qualifications; type of examination required; whether or not the applicant was rejected; whether or not a certificate or license was granted; the dates of the action of the board; and any other information as may be deemed necessary by the board.

(2) The records of the board shall be prima facie evidence of the proceedings of the board set forth therein, and the minutes thereof, duly certified by the secretary of the board under seal, shall be admissible in evidence with the same force and effect as if the original were produced.

(3) ~~Annually the board shall submit to the governor a report of its activities of the preceding year, and shall also transmit to him a summary statement of the receipts and expenditures of the board.~~

~~(4) Board records and papers are subject to disclosure according to chapter 1, title 74, Idaho Code.~~

SECTION 2. That Section 55-1701, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Chapter 17, Title 55, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 55-1701, Idaho Code, and to read as follows:

55-1701. DEFINITIONS. The following definitions shall apply to terms used in this chapter:

(1) "Board" means the Idaho board of licensure of professional engineers and professional land surveyors.

(2) "Idaho plane coordinate system" or "IPCS" means the system, and any successor system, of map projections specific to the state of Idaho maintained by NGS.

(3) "Idaho transverse mercator" or "IDTM" means the statewide mapping projection, and any successor system, specific to the state of Idaho maintained by the NGS.

(4) "Identifying information" means the datum, adjustment, epoch, coordinate system, zone, and unit of a plane coordinate system.

(5) "National geodetic survey" or "NGS" means the federal agency, and any successor agency, that defines and manages the NSRS.

(6) "National spatial reference system" or "NSRS" means the consistent coordinate system, and any successor system, defining latitude, longitude, height, scale, gravity, orientation, and shoreline throughout the United States.

(7) "State plane coordinate system" or "SPCS" means the nationwide system, and any successor system, of map projections maintained by NGS.

SECTION 4. That Section 55-1702, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Chapter 17, Title 55, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 55-1702, Idaho Code, and to read as follows:

55-1702. IDAHO PLANE COORDINATE SYSTEM. (1) The board shall, by rule, provide and prescribe the information that defines the currently accepted system of plane coordinates of the IPCS.

(2) The most recent system of plane coordinates that has been established by the NGS based on the NSRS, adopted by the board, and designated as the SPCS for defining and stating the positions or locations of points within the state of Idaho shall be known as the "Idaho plane coordinate system."

(3) Coordinates established or determined under previously defined systems may be used, provided identifying information is included in the document containing the coordinates.

(4) Coordinates derived by transformation from a prior system of plane coordinates shall be qualified as such in the document containing the coordinates. Such document shall also provide:

(a) Identifying information of the prior system and the system translated to, together with a statement of the method of translation;

(b) The type of transformation and parameters used and identifying information of the system translated to; or

(c) Other metadata sufficient to translate coordinates between the original and destination systems.

SECTION 6. That Section 55-1703, Idaho Code, be, and the same is hereby repealed.

SECTION 7. That Chapter 17, Title 55, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 55-1703, Idaho Code, and to read as follows:

55-1703. PLANE COORDINATES. (1) The plane coordinates to be used in expressing the position or location of a point in the appropriate zone of the IPCS shall consist of two (2) distances expressed in the units of measure used by the NGS at the time the SPCS is published. The east x-coordinate shall give the distance east of the y-axis, and the north y-coordinate shall give the distance north of the x-axis. The y-axis of any zone shall be parallel with the central meridian of that zone. The x-axis of any zone shall be at right angles to the central meridian of that zone.

(2) The coordinates described in subsection (1) of this section shall be made to depend upon and conform to the most recent system of plane coordinates, known as the SPCS and based upon the NSRS as maintained and provided by the NGS or its successors, provided such system has been adopted by administrative rule by the board.

SECTION 8. That Section 55-1704, Idaho Code, be, and the same is hereby amended to read as follows:

55-1704. ZONE NAMING AND DOCUMENTS REPORTING COORDINATES WITHIN TWO MULTIPLE ZONES. Any document containing coordinates of the IPCS will include, at a minimum, the datum, adjustment, epoch, and zone names as defined by the NGS. When any document reports coordinates of points that lie within ~~two~~ (2) multiple coordinate zones, the coordinates of all points shall refer to one (1) of the zones, which shall be named in the document.

SECTION 9. That Section 55-1705, Idaho Code, be, and the same is hereby repealed.

SECTION 10. That Chapter 17, Title 55, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 55-1705, Idaho Code, and to read as follows:

55-1705. STATED OR IMPLIED ACCURACY. The accuracy of coordinates shall be as stated in the document containing the coordinates. The expression of coordinates to decimals of the units used may not be construed as a statement of expected accuracy or reliability, unless so stated in the document containing the coordinates. Statements of accuracy must be defined as relative, absolute, or both.

SECTION 11. That Chapter 17, Title 55, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 55-1706, Idaho Code, and to read as follows:

55-1706. GEODETIC COORDINATES. The official geodetic datums to which geodetic coordinates, including but not limited to latitude, longitude, ellipsoid height or orthometric height, are referenced within the state of Idaho shall be those defined by the NGS.

SECTION 12. That Chapter 17, Title 55, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 55-1707, Idaho Code, and to read as follows:

55-1707. NONAUTHORITATIVE PLANE OR GEOGRAPHIC COORDINATES. The provisions of this chapter shall not be construed to prohibit the appropriate use of coordinates from nonauthoritative sources or coordinates based on alternative datums and geodetic reference networks. However, such coordinates shall be clearly identified as nonauthoritative or alternative to the

IPCS and documented in such a way so as not to be confused with coordinates of the IPCS. Nonauthoritative and alternative coordinates shall not be used to define regulatory boundaries or rights in real property. The board may adopt rules to define appropriate use of such coordinates.

SECTION 13. That Section 55-1708, Idaho Code, be, and the same is hereby repealed.

SECTION 14. That Chapter 17, Title 55, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 55-1708, Idaho Code, and to read as follows:

55-1708. SUPPLEMENTAL COORDINATE DESCRIPTIONS. (1) Whenever coordinates based on the IPCS are used to describe any boundary or right in real property, which in the same document or another document of record is also described by reference to any subdivision, line, or corner of the United States public land surveys or the lines or corners of a recorded subdivision, the description by coordinates shall be construed as supplemental to the basic description of such subdivision, line, or corner contained in the official plats and field notes of the United States public land surveys filed of record or in a recorded subdivision plat. In the event of any conflict, a description by reference to the subdivisions, lines, or corners of the United States public land surveys or lines and corners of a recorded subdivision shall prevail over any description by coordinates, unless said coordinates are upheld by adjudication, in which case the coordinate description shall prevail.

(2) Every recorded map, survey, plat, conveyance, or other instrument affecting title to or rights in real property that delineates, describes, or refers to such property or any part thereof by reference to coordinates based upon the IPCS shall also describe the property by reference and tie to public land survey corners as defined in section 55-1603(11), Idaho Code, unless such property is within a recorded subdivision, in which case the property may be described by reference and tie to lines and corners within such subdivision.

SECTION 15. That Section 55-1709, Idaho Code, be, and the same is hereby amended to read as follows:

55-1709. DESCRIPTION BY COORDINATE NOT MANDATORY. Nothing contained in this chapter shall require any lessee, purchaser, or mortgagee of real property or any right in real property to rely wholly on a land description, any part of which depends exclusively upon coordinates of the designated ~~Idaho coordinate system~~ IPCS.

SECTION 16. That Chapter 17, Title 55, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 55-1710, Idaho Code, and to read as follows:

55-1710. MODIFIED COORDINATES. Coordinates within the IPCS that have been modified for any purpose or coordinates within non-IPCS systems shall have:

(1) The qualifier "MODIFIED" added to the datum, adjustment, epoch, and zone reference. The document containing the coordinates shall include any datum adjustment, scale, elevation, or combined factors applied together with the origin of scale application and any other transformation parameters applied; or

(2) A label or description displayed in a manner that clearly shows the coordinates were not obtained through the IPCS.

CHAPTER 175
(S.B. No. 1079, As Amended)

AN ACT

RELATING TO ENVIRONMENTAL QUALITY; AMENDING CHAPTER 36, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3628A, IDAHO CODE, TO ESTABLISH THE AGRICULTURAL BEST MANAGEMENT PRACTICES (BMP) FUND, TO PROVIDE FOR GRANT ELIGIBILITY, AND TO PROVIDE FOR REPORTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 36, 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 39-3628A, Idaho Code, and to read as follows:

39-3628A. AGRICULTURAL BEST MANAGEMENT PRACTICES (BMP) FUND ESTABLISHED. (1) There is hereby created and established in the state treasury the agricultural best management practices (BMP) fund. The state treasurer shall invest the idle moneys of the account, and the interest earned on such investments shall be retained by the account. All moneys in the account are appropriated continuously to the department of environmental quality to be used and administered by it for the purposes specified in subsection (3) of this section and shall not be subject to the provisions of the standard appropriations act of 1945 or section 67-3516, Idaho Code.

(2) The fund shall have paid into it any gifts or grants from any source when the same are made for purposes consistent with those for which the fund is established, interest due to the investment of moneys in the account, or any other appropriation provided by the legislature.

(3) The department may expend or grant moneys from the agricultural best management practices (BMP) fund for a statewide grant program to support implementation of agricultural best management practices to help meet water quality standards in impaired water bodies in Idaho. The following are eligible for grants from the agricultural BMP fund:

- (a) Agricultural producers;
- (b) Organizations that provide irrigation water and drainage; and
- (c) Soil conservation districts and other local public and private nonprofit organizations organized for the purpose of supporting agricultural BMP implementation. The department must ensure that such local organizations seeking funding for local agricultural BMP grant programs have sufficient knowledge, experience, and capability to conduct such programs and require that local agricultural BMP grants are subject to all the conditions and requirements of the statewide grant program.

(4) On or before the first day of each regular legislative session, the department must submit to the legislature a report of any moneys expended or obligated and any work begun or completed in the prior fiscal year pursuant to subsection (3) of this section.

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

Approved April 13, 2021

CHAPTER 176
(S.B. No. 1083)

AN ACT

RELATING TO LICENSURE BY ENDORSEMENT; AMENDING SECTION 67-9306, IDAHO CODE, AS ENACTED BY SECTION 1, CHAPTER 296, LAWS OF 2019, TO REVISE PROVISIONS REGARDING LICENSURE BY ENDORSEMENT FOR MILITARY MEMBERS, VETERANS, AND SPOUSES.

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

SECTION 1. That Section 67-9306, Idaho Code, as enacted by Section 1, Chapter 296, Laws of 2019, be, and the same is hereby amended to read as follows:

67-9306. LICENSURE BY ENDORSEMENT -- MEMBERS OF THE MILITARY, VETERANS, AND SPOUSES. (1) ~~A licensing authority shall establish a procedure for the issuance of to grant licensure by endorsement to a member of the military, a former member of the military after discharge under honorable conditions, a veteran, or a spouse of any such person, if such person who possesses current, valid, and unrestricted licensure in another state, district, or territory of the United States, or in any branch of the armed forces or the national guard. Such procedure is intended to provide licensure by endorsement to qualifying persons within fifteen (15) business days after such person applies for licensure under this section, provided that the applicant is able to validate his qualifications pursuant to subsection (2) of this section within such time frame. Each licensing authority shall may promulgate applicable rules to implement the provisions of this subsection, if necessary.~~

~~(2) Subsection (1) of this section shall not apply to a person who is a member of a profession or occupation covered by an interstate licensure compact that the person's home state and Idaho have each adopted. In such a situation, a person shall apply for licensure pursuant to the terms of the applicable licensure compact rather than through licensure by endorsement. A person from a state that has not adopted an interstate licensure compact that Idaho has adopted is eligible for licensure by endorsement, provided that such person is otherwise eligible for licensure by endorsement under this section; however, such licensure shall be valid only in Idaho. A licensing authority for a profession or occupation affected by an interstate licensure compact that Idaho has adopted shall promulgate applicable rules to implement the provisions of this subsection. Each applicant for licensure by endorsement under this section must apply to the applicable licensing authority for relevant licensure to validate:~~

~~(a) The applicant's status as a member of the military, a former member of the military after discharge under honorable conditions, a veteran, or a spouse of any such person; and~~

~~(b) The applicant's current, valid, and unrestricted licensure in another state, district, or territory of the United States, or in any branch of the armed forces or the national guard.~~

~~(3) An applicant for licensure by endorsement pursuant to this section must disclose all current, pending, or subsequent disciplinary proceedings related to the applicant's licensure in another state, district, or territory of the United States, or in any branch of the armed forces or the national guard. A licensing authority has discretion regarding whether to withhold, revoke, or place conditions on an applicant's licensure by endorsement related to such disciplinary proceeding and any information obtained by the licensing authority related to such proceedings. An applicant's failure to disclose a current, pending, or future disciplinary~~

proceeding pursuant to this subsection is grounds for a licensing authority to withhold, revoke, or place conditions on licensure by endorsement pursuant to this section.

(4) With respect to an applicant under this section, each licensing authority must implement a condensed military application form to verify the requirements of subsection (2) of this section. A condensed application may not request additional information unless such information is deemed critical by the applicable licensing authority to verify the applicant's qualification for an Idaho-specific aspect of practice or to determine the applicable scope of practice pursuant to subsection (5) of this section. As part of a condensed military application, a licensing authority may not require:

(a) The taking of all or a portion of an examination, even if such examination is required of other applicants for the same type of licensure in Idaho; or

(b) The payment of an application fee.

(5) With respect to applicants for licensure by endorsement under this section, a licensing authority may, at its discretion, compare the authorized scope of practice in the applicable jurisdiction, or jurisdictions, where the applicant currently holds licensure to the authorized scope of practice in Idaho. If such licensing authority determines that the authorized scope of practice in Idaho is broader than the scope of practice authorized in the jurisdiction, or jurisdictions, where the applicant currently holds licensure, such licensing authority may issue a limited license to such applicant pending completion of the additional education, training, or any other requirements determined necessary by the licensing authority. A limited license issued under this section must restrict the applicant's practice in Idaho to the scope of practice authorized in the state where the applicant holds prior licensure until such time that the applicant satisfies the education, training, or other requirements deemed necessary by the licensing authority for a limited period of time necessary for an applicant to meet the qualifications for a full license. Notwithstanding the provisions of subsection (4) of this section, a licensing authority may administer an examination or partial examination to an applicant pursuant to this subsection for the purpose of ascertaining whether an applicant possesses the requisite qualifications for a full license. Such examination must be narrowly tailored to the additional knowledge or skills required for the applicant to prove that he is qualified for a full license.

(6) This section does not restrict a person who is a member of a profession or occupation covered by an applicable interstate licensure compact or applicable reciprocity agreement from seeking licensure by endorsement pursuant to this section. In such a situation, a person may apply for licensure by endorsement under this section or may apply for licensure pursuant to the terms of the applicable licensure compact or reciprocity agreement.

(7) An applicant under this section is subject to the laws regulating the person's practice in Idaho and is subject to the applicable licensing authority's jurisdiction. For purposes of this section, the term "licensure" means a license, certificate, registration, permit, or other authorization to practice a profession or occupation.

Approved April 13, 2021

CHAPTER 177
(S.B. No. 1084)

AN ACT

RELATING TO THE OCCUPATIONAL LICENSING REFORM ACT; AMENDING SECTION 67-9408, IDAHO CODE, TO ESTABLISH A PROCESS FOR REVIEW OF LICENSING AUTHORITIES AND RELATED LAWS AND REGULATIONS.

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

SECTION 1. That Section 67-9408, Idaho Code, be, and the same is hereby amended to read as follows:

67-9408. OCCUPATIONAL AND PROFESSIONAL LICENSURE REVIEW COMMITTEE. (1) In order to establish oversight of occupational and professional licensure and related issues in Idaho, there is hereby established an occupational and professional licensure review committee.

(2) The committee shall consist of eight (8) members, with four (4) members from the senate, one (1) of whom shall be cochair of the committee, and four (4) members from the house of representatives, one (1) of whom shall be cochair of the committee. Members from the senate shall be appointed by the president pro tempore of the senate, and members from the house of representatives shall be appointed by the speaker of the house of representatives. No more than three (3) members from the senate and no more than three (3) members from the house of representatives shall be from the same political party. Appointments to the committee shall be for the term of office of the member appointed. Any vacancy shall be filled in a manner consistent with the appointment procedure set forth in this subsection, except the appointment shall be for the remainder of the unexpired term. A committee member may be reappointed to the committee.

(3) In addition to conducting sunrise and sunset reviews as set forth in this section, the committee is authorized to study and review occupational licensing and certification laws in general in order to determine, as applicable, how the legislature may be able to ease occupational licensing barriers while still protecting the public health and safety. The committee shall meet as often as may be necessary for the proper performance of its duties upon the call of the cochairs.

~~(4) The committee shall operate for three (3) years and shall make a report to the first regular session of the sixty-seventh Idaho legislature in 2023. The legislature may take subsequent action to extend the duration of the committee or to make it permanent.~~

~~(5)~~ Beginning January 1, 2021, the committee shall conduct a sunrise review upon request that a lawful profession or occupational group that is not licensed become licensed. For purposes of this section, a profession or occupation becoming "licensed" means adding a requirement that a person must hold a license, certificate, registration, permit, or other authorization issued by a licensing authority to engage in such profession or occupation. Sunrise review by the committee shall be required prior to the introduction of any proposed legislation that a lawful profession or occupational group that is not licensed become licensed; provided, however, that a germane committee of the legislature later considering such proposed legislation shall not be bound by the recommendation of the committee. The sunrise review process shall be as follows:

(a) The legislative services office shall prepare and publish an application form to be approved by the committee and used for the sunrise review process.

(b) A requestor shall, prior to the introduction of any proposed legislation, submit the application for sunrise review to the legislative

services office. The application shall be submitted by May 1 for review and processing prior to the next regular legislative session.

(c) In addition to any other information requested by the committee or staff, the application shall include a copy of the applicant's proposed draft legislation and a description of:

(i) The requestor's identity and relationship to the profession or occupational group;

(ii) Why licensing or other regulation of the profession or occupation is necessary to protect against present, recognizable, and sufficient harm to the health, safety, or welfare of the public to warrant the regulation proposed;

(iii) Why the proposed licensing or other regulation is the least restrictive regulation necessary to protect against present, recognizable, and sufficient harm to the health, safety, or welfare of the public to warrant the regulation proposed;

(iv) Why the public cannot be effectively protected by other means;

(v) Whether the overall cost-effectiveness and economic impact of the proposed regulation, including the direct and indirect costs to consumers, will be outweighed by the benefits of the proposed licensing or other regulation;

(vi) Whether the proposed licensing or other regulation will have an unreasonably negative effect on job creation, job retention, or wages in the state or will place unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a given profession or occupation to continue to practice or to find employment; and

(vii) Any other relevant information.

(d) With respect to an application timely received by the legislative services office by May 1:

(i) By August 1, the legislative services office shall submit a report with factual analysis to the committee and the applicant. Such report shall be made available to the public. Such report shall verify the contents of an application and submitted information and address any other related factual matters, but shall not contain a recommendation.

(ii) By October 1, the committee shall review such application and submitted information and the associated report prepared by the legislative services office, along with any other relevant information, and hold a ~~public hearing on~~ meeting to consider such application.

(iii) By November 1, the committee shall prepare a written recommendation as to whether a requested occupation or profession should be licensed in the manner set forth in the application and shall deliver such recommendation to the president pro tempore of the senate and the speaker of the house of representatives for subsequent delivery to the appropriate germane committee chairpersons. Such written recommendation may include nonmandatory suggestions as to how the application, including the proposed legislation, may be improved. An applicant receiving such suggestions shall be encouraged to follow the recommended suggestions of the committee before offering the legislation for introduction during the next legislative session.

(e) The committee shall conduct sunrise reviews for two (2) years and shall make a report to the first regular session of the sixty-seventh Idaho legislature in 2023. The legislature may take subsequent action to extend the duration of the committee's sunrise review responsibilities or to make them permanent.

(5) Beginning in 2022, the committee shall conduct a sunset review of each licensing authority on a rotating basis. Review of a licensing authority shall include review of the existing laws and regulations related to a licensing authority.

(a) The sunset review process established by this subsection shall be conducted as follows:

(i) Licensing authorities shall be divided into six (6) groups to be determined by the committee;

(ii) The committee shall endeavor to review at least one (1) group each year, depending on the priorities and workload of the committee;

(iii) Each licensing authority shall be reviewed at least every five (5) years; and

(iv) A licensing authority may be reviewed out of order if the governor or a member of the legislature makes a written request to the committee and the cochairs of the committee approve such request.

(b) After all groups have been reviewed one (1) time, the committee shall continue to review the groups as described in this subsection and according to the priorities and workload of the committee.

(c) The review process shall include an opportunity for stakeholder participation, in such manner as determined by the committee.

(d) Upon completion of the review process established in this section, the committee shall issue a report regarding its findings. The report shall include the committee's findings as to whether, with respect to each licensing authority under consideration:

(i) The existing licensing or other regulation is necessary to protect against present, recognizable, and sufficient harm to the health, safety, or welfare of the public to warrant the regulation;

(ii) The existing licensing or other regulation is the least restrictive regulation necessary to protect against present, recognizable, and sufficient harm to the health, safety, or welfare of the public to warrant the regulation proposed;

(iii) The public can be effectively protected by other means;

(iv) The overall cost-effectiveness and economic impact of the existing licensing or other regulation of the profession or occupation, including the direct and indirect costs to consumers, is outweighed by the benefits of the licensing or other regulation;

(v) The existing licensing or other regulation has had an unreasonably negative effect on job creation, job retention, or wages in the state or has placed unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a given profession or occupation to continue to practice or to find employment; and

(vi) Other relevant information should be considered.

(e) Based on the committee's findings with respect to the factors provided in paragraph (d) of this subsection with respect to each licensing authority under review, the committee's report shall include a recommendation as to whether:

(i) The existing licensing or other regulation should be repealed;

(ii) The existing licensing or other regulation should be amended to reduce barriers to licensure;

(iii) Other legislative reforms are recommended; or

(iv) No legislative reforms are recommended.

(f) The committee is authorized to draft legislation regarding recommended legislative actions, if any, and may attach such draft legislation to its report.

(g) Upon completion of the review process established in this section, the committee shall deliver its report, along with any related draft legislation, to the president pro tempore of the senate and the speaker of the house of representatives for subsequent delivery to the appropriate germane committee chairs.

(h) A germane committee of the legislature shall not be bound by a recommendation of the committee.

Approved April 13, 2021

CHAPTER 178
(S.B. No. 1095)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1304, IDAHO CODE, TO REVISE A PROVISION REGARDING BOARD MEMBER COMPENSATION.

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

SECTION 1. That Section 59-1304, Idaho Code, be, and the same is hereby amended to read as follows:

59-1304. RETIREMENT BOARD -- APPOINTMENT. (1) There is hereby created in the office of the governor a governing authority of the system to consist of a board of five (5) persons known as the retirement board. Each member of the board shall be appointed by the governor to serve a term of five (5) years. The governor shall designate one (1) member of the board to serve as chairman.

(2) Two (2) board members shall be appointed from among active members having at least ten (10) years of credited service.

(3) Three (3) board members shall be appointed from among Idaho citizens who are not members of the system except by reason of having served on the board.

(4) Members of the board shall be compensated as provided by section 59-509(hp), Idaho Code. These allowances shall be paid from the administration account of the fund.

(5) A board member shall serve until his successor qualifies. Each board member shall be entitled to one (1) vote, and three (3) board members shall constitute a quorum. Three (3) votes shall be necessary for resolution or action by the board at any meeting except as otherwise provided in this chapter.

(6) The board shall hold regular meetings and shall hold special meetings at such times and at such places as it deems necessary. All meetings of the board shall be open to the public. The board shall keep a record of all its proceedings.

Approved April 13, 2021

CHAPTER 179
(S.B. No. 1101)

AN ACT

RELATING TO HIGHWAYS AND BRIDGES; AMENDING SECTION 40-203, IDAHO CODE, TO PROVIDE FOR VACATION OF CERTAIN RIGHTS-OF-WAY WITHOUT COMPENSATION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 40-203, Idaho Code, be, and the same is hereby amended to read as follows:

40-203. ABANDONMENT AND VACATION OF COUNTY AND HIGHWAY DISTRICT SYSTEM HIGHWAYS OR PUBLIC RIGHTS-OF-WAY. (1) A board of county or highway district commissioners, whichever shall have jurisdiction of the highway system, shall use the following procedure to abandon and vacate any highway or public right-of-way in the county or highway district system including those which furnish public access to state and federal public lands and waters:

(a) The commissioners may by resolution declare their intention to abandon and vacate any highway or public right-of-way, or to reclassify a public highway as a public right-of-way, where doing so is in the public interest.

(b) Any resident, or property holder, within a county or highway district system including the state of Idaho, any of its subdivisions, or any agency of the federal government may petition the respective commissioners for abandonment and vacation of any highway or public right-of-way within their highway system. The petitioner shall pay a reasonable fee as determined by the commissioners to cover the cost of the proceedings.

(c) The commissioners shall establish a hearing date or dates on the proposed abandonment and vacation.

(d) The commissioners shall prepare a public notice stating their intention to hold a public hearing to consider the proposed abandonment and vacation of a highway or public right-of-way, which shall be made available to the public not later than thirty (30) days prior to any hearing and mailed to any person requesting a copy not more than three (3) working days after any such request.

(e) At least thirty (30) days prior to any hearing scheduled by the commissioners to consider abandonment and vacation of any highway or public right-of-way, the commissioners shall mail notice by United States mail to known owners and operators of an underground facility, as defined in section 55-2202, Idaho Code, that lies within the highway or public right-of-way.

(f) At least thirty (30) days prior to any hearing scheduled by the commissioners to consider abandonment and vacation of any highway or public right-of-way, the commissioners shall mail notice to owners of record of land abutting the portion of the highway or public right-of-way proposed to be abandoned and vacated at their addresses as shown on the county assessor's tax rolls and shall publish notice of the hearing at least two (2) times if in a weekly newspaper or three (3) times if in a daily newspaper, the last notice to be published at least five (5) days and not more than twenty-one (21) days before the hearing.

(g) At the hearing, the commissioners shall accept all information relating to the proceedings. Any person, including the state of Idaho or any of its subdivisions, or any agency of the federal government, may appear and give testimony for or against abandonment.

(h) After completion of the proceedings and consideration of all related information, the commissioners shall decide whether the abandonment and vacation of the highway or public right-of-way is in the public interest of the highway jurisdiction affected by the abandonment or vacation. The decision whether or not to abandon and vacate the highway or public right-of-way shall be written and shall be supported by findings of fact and conclusions of law.

(i) If the commissioners determine that a highway or public right-of-way parcel to be abandoned and vacated in accordance with the provisions of this section has a fair market value of two thousand five hundred dollars (\$2,500) or more, a charge may be imposed upon the acquiring entity, not in excess of the fair market value of the parcel, as a condition of the abandonment and vacation; provided, however, no such charge shall be imposed on the landowner who originally dedicated such parcel to the public for use as a highway or public right-of-way; and provided further, that if the highway or public right-of-way was originally a federal land right-of-way, said highway or public right-of-way shall revert to a federal land right-of-way.

(j) The commissioners shall cause any order or resolution to be recorded in the county records and the official map of the highway system to be amended as affected by the abandonment and vacation.

(k) From any such decision, a resident or property holder within the county or highway district system, including the state of Idaho or any of its subdivisions, or any agency of the federal government, may appeal to the district court of the county in which the highway or public right-of-way is located pursuant to section 40-208, Idaho Code.

(2) No highway or public right-of-way or parts thereof shall be abandoned and vacated so as to leave any real property adjoining the highway or public right-of-way without access to an established highway or public right-of-way. The burden of proof shall be on the impacted property owner to establish this fact.

(3) In the event of abandonment and vacation, rights-of-way or easements shall be reserved for the continued use of existing sewer, gas, water, or similar pipelines and appurtenances, or other underground facilities as defined in section 55-2202, Idaho Code, for ditches or canals and appurtenances, and for electric, telephone and similar lines and appurtenances.

(4) (a) When a county or highway district is to consider the abandonment or vacation of any highway, public street or public right-of-way that was accepted as part of a recorded platted subdivision, such abandonment shall be accomplished pursuant to the provisions of this section.

(b) When a county or highway district is to consider the abandonment or vacation of any highway, public street, or public right-of-way that was accepted as part of a platted subdivision that has never been improved or developed, such vacation or abandonment may be approved through the dedication of a new highway, public street, or public right-of-way without compensation as set forth in subsection (1) (i) of this section.

(c) When a county is to consider the abandonment or vacation of any private right-of-way that was accepted as part of a recorded platted subdivision, said abandonment or vacation shall be accomplished pursuant to the provisions of chapter 13, title 50, Idaho Code.

(5) In any proceeding under this section or section 40-203A, Idaho Code, or in any judicial proceeding determining the public status or width of a highway or public right-of-way, a highway or public right-of-way shall be deemed abandoned if the evidence shows:

(a) That said highway or public right-of-way was created solely by a particular type of common law dedication, ~~to wit,~~ such as a dedication based upon a plat or other document that was not recorded in the official records of an Idaho county;

(b) That said highway or public right-of-way is not located on land owned by the United States or the state of Idaho nor on land entirely surrounded by land owned by the United States or the state of Idaho nor does it provide the only means of access to such public lands; and

(c) (i) That said highway or public right-of-way has not been used by the public and has not been maintained at the expense of the public in at least three (3) years during the previous fifteen (15) years; or

(ii) Said highway or right-of-way was never constructed and at least twenty (20) years have elapsed since the common law dedication.

(6) All other highways or public rights-of-way may be abandoned and vacated only upon a formal determination by the commissioners pursuant to this section that retaining the highway or public right-of-way for use by the public is not in the public interest, and such other highways or public rights-of-way may be validated or judicially determined at any time notwithstanding any other provision of law. Provided that any abandonment under this subsection shall be subject to and limited by the provisions of subsections (2) and (3) of this section.

Approved April 13, 2021

CHAPTER 180
(S.B. No. 1102)

AN ACT

RELATING TO ELECTRONIC MOTOR VEHICLE REGISTRATION; AMENDING SECTION 49-401A, IDAHO CODE, TO REVISE PROVISIONS REGARDING MOTOR VEHICLE REGISTRATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-401C, IDAHO CODE, TO PROVIDE FOR ELECTRONIC VEHICLE CREDENTIAL PROVIDERS; AMENDING SECTION 49-504, IDAHO CODE, TO PROVIDE FOR THE RETENTION OF CERTAIN RECORDS, TO PROVIDE FOR ELECTRONIC VEHICLE CREDENTIAL PROVIDERS, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-505, IDAHO CODE, TO PROVIDE FOR ELECTRONIC RECORDS OF TITLE AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 49-522, IDAHO CODE, TO CLARIFY TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 49-401A, Idaho Code, be, and the same is hereby amended to read as follows:

49-401A. OWNER TO SECURE REGISTRATION FROM A COUNTY ASSESSOR OR THE DEPARTMENT. (1) Every owner of a motor vehicle, trailer or semitrailer who intends to operate the vehicle upon any highway in this state shall, before the same is so operated, apply to a county assessor or to the department or an agent of the department and obtain registration for vehicles in pursuant to sections 49-402(1) through (3), 49-402A, 49-402B and 49-422, Idaho Code. All others shall be obtained from the department except as provided in subsection (2) of this section. Owners of vehicles specified in section 49-426, Idaho Code, are exempt from the provisions of this section. Owners of vehicles operating on a temporary basis as provided in sections 49-431(3), 49-432 and 49-433, Idaho Code, are exempt from the provisions of this section to the extent that the temporary permits in use are unexpired.

(2) Commercial vehicles in excess of twenty-six thousand (26,000) pounds gross weight, farm and noncommercial vehicles in excess of sixty thousand (60,000) pounds gross weight and all vehicles registered under

section 49-435, Idaho Code, shall be registered by the department. All other commercial, farm and noncommercial vehicles and the vehicles in paragraphs (a), (b), and (c) of this subsection, shall be registered by the county assessor or by the department or an agent of the department.

(a) Motor vehicles equipped primarily to haul passengers on a commercial basis, doing strictly an intrastate business, and having gross weights of twenty-six thousand (26,000) pounds or less.

(b) Any farm vehicle or combination of vehicles where each vehicle or combination of vehicles shall not exceed a gross weight of sixty thousand (60,000) pounds.

(c) Nonresident vehicles or combination of vehicles owned by transient labor used in hauling unprocessed agricultural products for hire and not exceeding sixty thousand (60,000) pounds gross weight shall register their vehicle for the appropriate gross weight scale for the annual fee if registered on or before June 30, and for one-half (1/2) the annual fee if not registered until on or after July 1 of any year, with the assessor of the county in which the owner resides.

(3) Commercial, farm and noncommercial vehicles of any weight doing strictly an intrastate business may be registered by the county assessor or by the department or an agent of the department by mutual agreement between the department and the county.

SECTION 2. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-401C, Idaho Code, and to read as follows:

49-401C. ELECTRONIC VEHICLE CREDENTIAL PROVIDERS. (1) In order to continue improving the quality of its products and services, the department may establish contracts with electronic vehicle credential (EVC) providers that operate programs that provide vehicle registration services. An authorized EVC provider may act on behalf of the department and county assessors in receiving, processing, and transmitting to the department registration applications and related fees.

(2) The department shall establish any additional requirements for the purpose of safeguarding privacy and protecting the information authorized for handling under this section.

(3) The department may establish the maximum amount that an EVC provider may charge its customers in providing the services authorized under subsection (1) of this section.

(4) The department shall adopt procedures that ensure adequate oversight and monitoring of an EVC provider to protect vehicle owners from improper use of vehicle records.

(5) The number of EVC providers that may be established in Idaho shall not exceed ten (10).

(6) The department is authorized to promulgate rules to administer the EVC provider program.

SECTION 3. That Section 49-504, Idaho Code, be, and the same is hereby amended to read as follows:

49-504. APPLICATIONS TO DEPARTMENT FOR CERTIFICATES -- PROCEDURE -- IDENTIFICATION NUMBERS. (1) Application for a certificate of title shall be made upon a form furnished by the department and shall contain the owner's Idaho driver's license number, Idaho identification card number or social security number or individual taxpayer identification number. In the case of a business, the employer tax identification number is required. Every application shall also contain the owner's true and full legal name. In the event that the owner does not possess a social security number, Idaho driver's license number, Idaho identification card number or individual

taxpayer identification number, the owner shall present written documentation sufficient to the department to determine that no social security number has been issued. In the event that a business, trust, or other statutorily created entity is not required to have and does not possess an employer tax identification number, the applicant shall provide a written statement certifying that the entity does not possess an employer tax identification number. The form must contain the owner's physical domicile address or in the case of a business, trust or other statutorily created entity, such entity's physical address and any mailing address if different from the physical address. If the owner has submitted an application pursuant to the provisions of chapter 58, title 19, Idaho Code, then the owner may state, in the application required pursuant to this section, the applicant's alternative Idaho mailing address in place of his or her physical domicile address. Such application must be signed by the owner and contain a full description of the vehicle, including the make, identification numbers, and the odometer reading at the time of sale or transfer, and whether the vehicle is new or used, together with a statement of the applicant's title and of any liens or encumbrances upon the vehicle, and the name and address of the person to whom the certificate of title shall be delivered, and any other information as the department may require. The application shall be filed with the department, and if a certificate of title has previously been issued for that vehicle in this state, shall be accompanied by the certificate of title duly assigned, unless otherwise provided for in this chapter. The department may promulgate rules to provide for exceptions to the odometer requirement. Social security numbers collected shall not appear on certificates of title, and all applications on file shall be exempt from disclosure, except as provided in sections 49-202, 49-203 and 49-203A, Idaho Code.

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

(3) In the case of a new vehicle being titled for the first time, no certificate of title or registration shall be issued unless the application is ~~indorsed~~ endorsed by a franchised new vehicle dealer licensed to sell a new vehicle. Each application shall be accompanied by a statement completed by the franchised new car dealer that it is authorized to transfer the vehicle to the purchaser. The dealer shall retain in its records a manufacturer's certificate of origin or manufacturer's statement of origin executed by the manufacturer and delivered to his agent or his franchised vehicle dealer. The certificate or statement of origin shall be in a form prescribed by the board and shall contain the year of manufacture or the model year of the vehicle, the manufacturer's vehicle identification number, the name of the manufacturer, the number of cylinders, a general description of the body, if any, and the type or model. Upon sale of a new vehicle, the manufacturer, his agent or franchised dealer shall execute and deliver to the purchaser an assignment of the certificate or statement, together with any lien or encumbrance to which the vehicle is subject. The certificate or statement will be retained by the dealer for five (5) years so that it is available for inspection by the department.

(4) The department shall retain the evidence of title presented by the applicant and on which the certificate of title is issued. The department shall maintain an identification numbers index of registered vehicles, and, upon receiving an application for a certificate of title, shall first check the identification number shown in the application against the index. The department, when satisfied that the applicant is the owner of the vehicle and

that the application is in proper form, shall issue in the name of the owner of the vehicle a certificate of title bearing a title number, the date issued and a description of the vehicle as determined by the department, together with a statement of the owner's title and of all liens or encumbrances upon the vehicle, and whether possession is held by the owner under a lease, contract or conditional sale, or other like agreement.

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

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

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

(8) An EVC provider authorized pursuant to section 49-401C, Idaho Code, may act on behalf of the department in receiving, processing, and transmitting applications for title and any related fees to the department. The security, oversight, and processing requirements in chapter 4, title 49, Idaho Code, shall also apply to titling transactions conducted by an EVC provider.

(9) The department may allow a person to submit a required document by using electronic media deemed feasible by the department instead of requiring an original document. If a signature on a document is required by law and the document is submitted electronically, the signature requirement will be satisfied by an authenticated electronically submitted signature. An electronically submitted document, once accepted by the department, shall be deemed the same as an original document and shall be admissible in all administrative, quasi-judicial, and judicial proceedings.

SECTION 4. That Section 49-505, Idaho Code, be, and the same is hereby amended to read as follows:

49-505. ISSUANCE OF CERTIFICATES OF TITLE BY DEPARTMENT -- DELIVERY -- ELECTRONIC FILE FOR LIENHOLDERS. Certificates of title shall be printed by the department. The original copy shall be delivered to the applicant if there are no liens or encumbrances on the certificate. If there are liens or encumbrances recorded, the certificate shall be delivered or mailed to the holder of the lien or encumbrance who is first in time, on the date of the application.

In place of physically issuing a paper certificate of title, the department may create a paperless electronic record of title and lien filing and suspend the requirement to issue a certificate of title ~~if~~. If a lien is being recorded, the department and the lienholder will enter into a written agreement authorizing the creation of the electronic record of the certificate of title. Any reference to a "certificate of title" in this chapter shall also apply to an "electronic record of title." The department may require that lienholders, licensed dealers, and rental car vendors be issued an electronic record of title in lieu of the issuance of paper certificates if the department determines such method to be more cost effective than a paper system.

SECTION 5. That Section 49-522, Idaho Code, be, and the same is hereby amended to read as follows:

49-522. ~~INDORSEMENT~~ ENDORSEMENT "FOR JUNK ONLY" ON CERTIFICATE WHEN VEHICLE SOLD OR TRANSFERRED -- OPERATION PROHIBITED. (1) The owner of any vehicle who sells or transfers it to another with the intention or understanding that the vehicle is not to be used as an operating unit shall, at the time of sale or transfer, ~~indorse~~ endorse on the face of the certificate of title to that vehicle the words "for junk only," and the department shall place those words on the face of each subsequent certificate of title to that vehicle.

(2) No person shall operate upon a highway any vehicle, the certificate of title to which has been so ~~indorsed~~ endorsed, and no person shall sell or attempt to sell that vehicle for use as an operating unit.

Approved April 13, 2021

CHAPTER 181
(S.B. No. 1115)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-5209A, IDAHO CODE, TO REMOVE PROVISIONS REGARDING A PERFORMANCE FRAMEWORK; AND AMENDING SECTION 33-5213, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE PUBLIC CHARTER SCHOOL COMMISSION.

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

SECTION 1. That Section 33-5209A, Idaho Code, be, and the same is hereby amended to read as follows:

33-5209A. ACCOUNTABILITY. (1) Performance framework. The performance provisions within the performance certificate shall be based upon a performance framework that clearly sets forth the academic and operational performance indicators, measures and metrics that will guide the authorized chartering entity's evaluations of each public charter school. The performance framework shall include indicators, measures and metrics for, at a minimum:

- (a) Student academic proficiency;
- (b) Student academic growth;
- (c) College and career readiness (for high schools); and
- (d) Board performance and stewardship, including compliance with all applicable laws, regulations and terms of the performance certificate.

(2) Measurable performance targets shall be set by each charter holder for each public charter school for which it holds a charter in conjunction with its authorized chartering entity and shall, at a minimum, require that each school meet applicable federal, state and authorized chartering entity goals for student achievement.

~~(3) The performance framework shall allow the inclusion of additional rigorous, valid and reliable indicators proposed by a charter holder to augment external evaluations of its performance, provided that the authorized chartering entity approves the quality and rigor of such proposed indicators, and that they are consistent with the purposes of this chapter.~~

(4) For each public charter school it oversees, the authorized chartering entity shall be responsible for analyzing and reporting all data from state assessments in accordance with the performance framework.

SECTION 2. That Section 33-5213, Idaho Code, be, and the same is hereby amended to read as follows:

33-5213. PUBLIC CHARTER SCHOOL COMMISSION. (1) There is hereby created an independent public charter school commission, referred to hereinafter as the commission, ~~to be located in the office of~~ under the state board of education, pursuant to section 33-1051, Idaho Code. The commission is hereby authorized to appoint a director who shall serve at the pleasure of the commission and shall receive such salary as fixed by the commission. It shall be the responsibility and duty of the ~~executive director of the state board of education, or his designee,~~ acting at the direction of the commission to administer and enforce the provisions of this chapter, ~~and the director or his designee shall serve as secretary to the commission. The director shall hire such staff as may be necessary to assist in carrying out the provisions of this chapter.~~

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

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

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

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

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

Commissioner appointments made pursuant to this section prior to July 1, 2021, shall remain valid through the duration of the term to which each commissioner was appointed. ~~To establish a transition to the appointing authority structure contained in this subsection, the first four (4) appointments available on or after July 1, 2013, shall be made in an alternating sequence for each appointment by the speaker of the house of representatives, the president pro tempore of the senate, and the governor. Notwithstanding this sequence of appointments, at no time may any appointing authority appoint more members of the commission than permitted under this subsection. Subsequent appointments shall be made by the same appointing authority that originally appointed the commissioner whose term expired.~~

(4) The term of office for commission members shall be four (4) years. In making such appointments, the appointing authorities governor shall consider regional balance without reference to party affiliation. Members appointed to the commission shall collectively possess strong experience and expertise in public and nonprofit governance, management and finance, public school leadership, assessment, curriculum and instruction, and public education law. All members of the commission shall have demonstrated understanding of and commitment to charter schools as a strategy for

strengthening public education. Members of the commission shall hold office until the expiration of the term to which the member was appointed and until a successor has been duly appointed, unless sooner removed for cause by the ~~appointing authority~~ governor. Whenever a vacancy occurs, the ~~appointing authority~~ governor shall appoint a qualified person to fill the vacancy for the unexpired portion of the term.

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

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

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

Approved April 13, 2021

CHAPTER 182

(S.B. No. 1116, As Amended)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-205, IDAHO CODE, TO REVISE PROVISIONS REGARDING EXPULSION OF OR DENIAL OF ENROLLMENT TO STUDENTS WHO POSSESS CERTAIN WEAPONS ON SCHOOL PROPERTY, TO DEFINE TERMS, AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-205, Idaho Code, be, and the same is hereby amended to read as follows:

33-205. DENIAL OF SCHOOL ATTENDANCE. (1) The board of trustees may deny enrollment, or may deny attendance at any of its schools by expulsion, to any pupil who is an a habitual truant, or who is incorrigible, or whose conduct, in the judgment of the board, is such as to be continuously disruptive of school discipline, or of the instructional effectiveness of the school, or whose presence in a public school is detrimental to the health and safety of other pupils, or who has possessed a deadly or dangerous weapon or firearm on school property, or who has been expelled from another school district in this state or any other state. Any pupil having been denied enrollment or expelled may be enrolled or readmitted to the school by the board of trustees upon such reasonable conditions as may be prescribed by the board; but such enrollment or readmission shall not prevent the board from again expelling such pupil for cause.

(2) Provided however, the board shall expel from school for a period of not less than one (1) year, twelve (12) calendar months, or may deny enrollment to, ~~a student who has been found to have carried a weapon or possessed a firearm on school property in this state or any other state, except that~~ the. The board may modify the such expulsion or denial of enrollment order requirement on a case-by-case basis when the board determines reasonable conditions apply and the student's presence is not detrimental to the health and safety of other students. Discipline of students with disabilities shall be in accordance with the requirements of federal law part B of the

individuals with disabilities education act and section 504 of the rehabilitation act. An authorized representative of the board shall report such student and incident to the appropriate law enforcement agency.

(3) No pupil shall be expelled ~~nor~~ or denied enrollment without the board of trustees having first given written notice to the parent or guardian of the pupil, which notice shall state the grounds for the proposed expulsion or denial of enrollment and the time and place where such parent or guardian may appear to contest the action of the board to deny school attendance, and which notice shall also state the rights of the pupil to be represented by counsel, to produce witnesses and submit evidence on his own behalf, and to cross-examine any adult witnesses who may appear against him. Within a reasonable period of time following such notification, the board of trustees shall grant the pupil and his parents or guardian a full and fair hearing on the proposed expulsion or denial of enrollment. However, the board shall allow a reasonable period of time between such notification and the holding of such hearing to allow the pupil and his parents or guardian to prepare their response to the charge. Any pupil ~~who is~~ within the age of compulsory attendance, who is expelled or denied enrollment as herein provided, shall come under the purview of the juvenile corrections act, and an authorized representative of the board shall, within five (5) days, give written notice of the pupil's expulsion to the prosecuting attorney of the county of the pupil's residence.

(4) The superintendent of any district or the principal of any school may temporarily suspend any pupil for disciplinary reasons, including student harassment, intimidation or bullying, or for other conduct disruptive of good order or of the instructional effectiveness of the school. A temporary suspension by the principal shall not exceed five (5) school days in length; and the school superintendent may extend the temporary suspension an additional ten (10) school days. Provided, that on a finding by the board of trustees that immediate return to school attendance by the temporarily suspended student would be detrimental to other pupils' health, welfare or safety, the board of trustees may extend the temporary suspension for an additional five (5) school days. Prior to suspending any student, the superintendent or principal shall grant an informal hearing on the reasons for the suspension and the opportunity to challenge those reasons. Any pupil who has been suspended may be readmitted to the school by the superintendent or principal who suspended him upon such reasonable conditions as said superintendent or principal may prescribe. The board of trustees shall be notified of any temporary suspensions, the reasons therefor, and the response, if any, thereto.

(5) The board of trustees of each school district shall establish the procedure to be followed by the superintendent and principals under its jurisdiction for the purpose of effecting a temporary suspension, which procedure must conform to the minimal requirements of due process.

(6) As used in this section, "possess," "deadly or dangerous weapon," and "firearm" have the same meanings as provided in section 18-3302D, Idaho Code.

Approved April 13, 2021

CHAPTER 183
(S.B. No. 1119)

AN ACT

RELATING TO UNCLAIMED PROPERTY; AMENDING SECTION 55-403, IDAHO CODE, TO REVISE PROVISIONS REGARDING ABANDONED OR UNCLAIMED PROPERTY IN POSSESSION OF A SHERIFF OR CITY POLICE DEPARTMENT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 55-403, Idaho Code, be, and the same is hereby amended to read as follows:

55-403. ABANDONED OR UNCLAIMED PROPERTY IN POSSESSION OF SHERIFF OR CITY POLICE DEPARTMENT -- SALE AT PUBLIC AUCTION. (1) Except as otherwise provided in subsection (4) of this section, any personal property which that has come into the possession or custody of the sheriff of any county in this state or the city police department of any city in this state by reason of the same having been abandoned, impounded or otherwise left with the sheriff or city police department, or if originally taken into custody under legal process, such property has been lawfully released or discharged from the attachment or other process under which it was taken into custody and which remains unclaimed or unredeemed by the owner or one entitled to possession thereof for more than ~~six (6) months~~ ninety (90) days from the date of such abandonment, impoundment, leaving, or release from attachment or other process under which the same was originally taken into custody, as the case may be, shall be subject to sale by the sheriff or city police department at public auction for cash on not less than five (5) or more than ten (10) days' notice except as otherwise provided in subsection (2) of this section, the conduct and notice of which sale shall be given and had in conformity with sales on execution; provided, however, that prior to public auction, bicycles need only be unclaimed or unredeemed by the owner or one entitled to possession for more than ~~ninety (90)~~ sixty (60) days and that personal property with a fair market value of less than twenty-five dollars (\$25.00) need only be unclaimed or unredeemed by the owner or one entitled to possession for more than thirty (30) days.

(2) Whenever the sheriff or city police department has knowledge of the name and address of the owner or one entitled to possession of personal property, a copy of such notice of sale at public auction as provided in subsection (1) of this section or of a bid for sale as provided in subsection (4) of this section, shall be mailed to such owner or one entitled to possession, with postage prepaid, at least fourteen (14) days prior to such sale.

(3) As many items of personal property may be noticed for sale and sold at the same sale as the sheriff or city police department may deem advisable, and said property may be sold singly or in lots or as a whole as the sheriff or city police department may determine. The sheriff or city police department shall give a bill of sale to the highest bidder upon payment of the amount bid upon payment of the bid price.

(4) (a) Any firearm or ammunition that meets the established specifications for official law enforcement duty use and will be used for official law enforcement duty use and which has come into the possession or custody of the sheriff of any county in this state or the city police department of any city in this state by reason of the firearm or ammunition having been abandoned, impounded or otherwise acquired by the sheriff or city police department, or if originally released or discharged from the attachment or other process under which it was taken into custody and which remains unclaimed or unredeemed by the owner

or person entitled to possession thereof for more than six (6) months from the date of such abandonment, impoundment, leaving or release from attachment or other process under which the firearm or ammunition was originally taken into custody, as the case may be, may be converted by the county sheriff or city police department in the county or city in which it was first acquired. A serial number record shall be maintained for all firearms thus converted, and such record shall include the description, acquisition and disposition for each firearm converted.

(b) Any firearm or ammunition not converted for official law enforcement duty use as provided in subsection (4) (a) of this section, where such firearm or ammunition may be lawfully possessed by a licensed firearm dealer, shall be subject to sale to a licensed firearm dealer by sealed or opened bids after notification as provided in subsection (2) of this section. If no sale is completed for the firearm or ammunition pursuant to this paragraph ~~(b)~~, the firearm or ammunition may be converted to public agency ownership for official law enforcement purposes, provided an actual or appraised value is determined for each firearm or any ammunition converted. If the firearm or ammunition is not converted, or if following conversion the firearm or ammunition is deemed unusable or unsafe, the firearm or ammunition may be scrapped by melting or other method of destruction. The public agency shall maintain procedures and records as to the acquisition, serial number, location, use and final disposition of the firearm.

(c) Notwithstanding any other provision of law, a court shall direct the county sheriff or city police department to dispose of any firearm that has been used in the commission of a homicide in a manner the sheriff or city police department deems appropriate, provided however, this paragraph ~~(c)~~ shall not apply to a firearm confiscated or otherwise acquired pursuant to an action under section 18-4009, 18-4011 or 18-4012, Idaho Code.

(5) Any public agency that confiscates a firearm shall maintain a serial number record, including a record of the acquisition and disposition, of such firearm and shall provide the firearm to the sheriff or city police department in the county or city in which the confiscation takes place. The firearm shall thereafter be handled in accordance with the provisions of this section.

Approved April 13, 2021

CHAPTER 184
(S.B. No. 1124, As Amended)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-1849, IDAHO CODE, TO REVISE PROVISIONS REGARDING CONTRACTS WITH PROVIDERS OF DENTAL SERVICES; AND AMENDING SECTION 41-3444, IDAHO CODE, TO REVISE PROVISIONS REGARDING CONTRACTS WITH PROVIDERS OF DENTAL SERVICES.

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

SECTION 1. That Section 41-1849, Idaho Code, be, and the same is hereby amended to read as follows:

41-1849. CONTRACTS WITH PROVIDERS OF DENTAL SERVICES. (1) No person contracting with dentists to provide coverage or reimbursement for dental services may require, as an element of any dental care provider participation contract, that the provider agree to adopt fees set by the person for dental care services that are not covered services under the contract. "Cov-

ered services" as used in this section means dental care services and procedures under the applicable dental plan, dental plan contract, or plan benefits for which payment is available to the covered person or dentist under the covered person's plan or contract or for which payment to the covered person or to the dentist would be available but for the application of contractual limitations on reimbursement, such as deductibles, copayments, coinsurance, and waiting periods. All services or procedures are no longer covered services, and the plan can no longer impose, contractually or otherwise, a fee schedule or other limitation when the following criteria have been met:

(a) When the third-party payer is no longer liable for paying for an individual service or a procedure, in part or in whole, due to calendar-year limitations or benefit-year limitations; and

(b) A patient has received dental services and procedures that equal an additional one hundred percent (100%) of the amount of the patient's capped annual maximum benefit for the calendar year or benefit year.

Once a patient's capped annual maximum benefit amount for a calendar year or benefit year has been exceeded by one hundred percent (100%), a dentist may choose to provide dental services or procedures according to a plan's fee schedule or to provide dental services or procedures at a fee agreed upon with the patient. The dentist must confer with and provide notice to the patient regarding the patient's change in fee status, and any agreed-upon fee shall not exceed the lowest fee available to the dentist's uninsured patients.

(2) A person contracting with dentists must provide one (1) or more methods of payment or reimbursement that:

(a) Provide the dentist one hundred percent (100%) of the contracted amount of the payment or reimbursement; and

(b) Do not require the dentist to incur a fee to access the payment or reimbursement.

(3) A person contracting with dentists may extend the provider network to other entities when:

(a) Full disclosure of the agreement has been provided to the dentist, including any variations in obligations and fee schedule from the original contract; and

(b) The dentist has been provided a timeframe of no less than two (2) weeks to decline participation.

This subsection shall not apply to a person operating in accordance with the same brand licensee program as the contracting person or to a person that is an affiliate, as long as the contractual terms, obligations, and fee schedule remain the same as the original agreement.

(4) Subsections (2) and (3) of tThis section shall apply to any contract with providers for dental services that is issued after December 31, 2021¹⁹. Contracts that are in existence on December 31, 2021¹⁹, shall be brought into compliance on the next anniversary date, the renewal date, or the expiration date of the applicable collective bargaining contract, if any, whichever date is latest.

SECTION 2. That Section 41-3444, Idaho Code, be, and the same is hereby amended to read as follows:

41-3444. CONTRACTS WITH PROVIDERS OF DENTAL SERVICES. (1) No person contracting with dentists to provide coverage or reimbursement for dental services may require, as an element of any dental care provider participation contract, that the provider agree to adopt fees set by the person for dental care services that are not covered services under the contract. "Covered services" as used in this section means dental care services and procedures under the applicable dental plan, dental plan contract, or plan benefits for which payment is available to the covered person or dentist un-

der the covered person's plan or contract or for which payment to the covered person or to the dentist would be available but for the application of contractual limitations on reimbursement, such as deductibles, copayments, coinsurance, and waiting periods. All services or procedures are no longer covered services, and the plan can no longer impose, contractually or otherwise, a fee schedule or other limitation when the following criteria have been met:

(a) When the third-party payer is no longer liable for paying for an individual service or a procedure, in part or in whole, due to calendar-year limitations or benefit-year limitations; and

(b) A patient has received dental services and procedures that equal an additional one hundred percent (100%) of the amount of the patient's capped annual maximum benefit for the calendar year or benefit year.

Once a patient's capped annual maximum benefit amount for a calendar year or benefit year has been exceeded by one hundred percent (100%), a dentist may choose to provide dental services or procedures according to a plan's fee schedule or to provide dental services or procedures at a fee agreed upon with the patient. The dentist must confer with and provide notice to the patient regarding the patient's change in fee status, and any agreed-upon fee shall not exceed the lowest fee available to the dentist's uninsured patients.

(2) A person contracting with dentists must provide one (1) or more methods of payment or reimbursement that:

(a) Provide the dentist one hundred percent (100%) of the contracted amount of the payment or reimbursement; and

(b) Do not require the dentist to incur a fee to access the payment or reimbursement.

(3) A person contracting with dentists may extend the provider network to other entities when:

(a) Full disclosure of the agreement has been provided to the dentist, including any variations in obligations and fee schedule from the original contract; and

(b) The dentist has been provided a timeframe of no less than two (2) weeks to decline participation.

This subsection shall not apply to a person operating in accordance with the same brand licensee program as the contracting person or to a person that is an affiliate, as long as the contractual terms, obligations, and fee schedule remain the same as the original agreement.

(4) Subsections (2) and (3) of tThis section shall apply to any contract with providers for dental services that is issued after December 31, 20219. Contracts that are in existence on December 31, 20219, shall be brought into compliance on the next anniversary date, renewal date, or the expiration date of the applicable collective bargaining contract, if any, whichever date is latest.

Approved April 13, 2021

CHAPTER 185
(S.B. No. 1130)

AN ACT

RELATING TO BURGLARY; AMENDING SECTION 18-1401, IDAHO CODE, TO REVISE THE DEFINITION OF "BURGLARY"; AND AMENDING SECTION 18-1401A, IDAHO CODE, TO REVISE THE DEFINITION OF "COMMERCIAL BURGLARY."

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

SECTION 1. That Section 18-1401, Idaho Code, be, and the same is hereby amended to read as follows:

18-1401. BURGLARY DEFINED. Every person who enters any house, room, apartment, tenement, store, shop, warehouse, mill, barn, stable, outhouse, or a building ~~other than one defined in section 18-1401A, Idaho Code~~, tent, vessel, vehicle, trailer, airplane, or railroad car with intent to commit any theft or any felony is guilty of burglary.

SECTION 2. That Section 18-1401A, Idaho Code, be, and the same is hereby amended to read as follows:

18-1401A. COMMERCIAL BURGLARY DEFINED. ~~Every~~ Any person who enters ~~a commercial establishment during business hours~~ commits a burglary as defined in section 18-1401, Idaho Code, with the intent to commit any theft and the theft is from a commercial retailer during business hours and the amount of the theft is under three hundred dollars (\$300) is guilty of commercial burglary. Any person who pleads guilty to, or is found guilty of, a violation of this section for the first time is guilty of a misdemeanor and may be sentenced to a jail sentence not to exceed six (6) months, a fine of one thousand dollars (\$1,000), or both. Any person who pleads guilty to, or is found guilty of, a violation of this section who previously has been found guilty of, or has pled guilty to, a violation of the provisions of this section within five (5) years is guilty of a misdemeanor and may be sentenced to a jail sentence not to exceed one (1) year, a fine of two thousand dollars (\$2,000), or both. Any person who pleads guilty to, or is found guilty of, a violation of this section who previously has been found guilty of, or has pled guilty to, two (2) or more violations of the provisions of this section within five (5) years, notwithstanding the form of the judgments or withheld judgments, shall be guilty of a felony.

Approved April 13, 2021

CHAPTER 186
(S.B. No. 1131)

AN ACT

RELATING TO GARNISHMENT; AMENDING SECTION 11-703, IDAHO CODE, TO REVISE PROVISIONS REGARDING GARNISHMENT SEARCH FEES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 11-710, IDAHO CODE, TO REVISE PROVISIONS REGARDING CERTAIN FINANCIAL INSTITUTION FEES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 11-714, IDAHO CODE, TO REVISE PROVISIONS REGARDING FINANCIAL INSTITUTION OBLIGATIONS WHEN SERVED WITH A WRIT OF GARNISHMENT; AND AMENDING SECTION 11-720, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE ANSWER OF A GARNISHEE.

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

SECTION 1. That Section 11-703, Idaho Code, be, and the same is hereby amended to read as follows:

11-703. GARNISHMENT -- SERVICE OF WRIT OF EXECUTION OR GARNISHMENT -- FINANCIAL INSTITUTIONS.

(1) (a) Upon receiving written directions from the judgment creditor or his attorney, that any person or corporation, public or private, has in his or its possession or control, any credits or other personal property belonging to the judgment debtor, or ~~is owing~~ owes any debt to the judgment debtor, the sheriff shall serve upon any such person, or corporation identified in the judgment creditor's written directions all of the following documents:

(ai) A copy of the writ;

(bii) A notice that such credits, or other property, or debts, as the case may be, are attached in pursuance of such writ;

(eiii) A notice of exemptions available under federal and state law;

(div) Instructions to debtors and third parties for asserting a claim of exemption;

(ev) A form for making a claim of exemption; and

(fvi) If the garnishee is a financial institution, a search fee of ~~five~~ seven dollars (\$~~5~~7.00) and the last known mailing address of the judgment debtor and, if known, a tax identification number that will enable the garnishee to identify the judgment debtor on its records.

(b) The documents specified in ~~paragraphs (c) through (e)~~ paragraph (a) (iii) through paragraph (a) (v) of this subsection shall be in a form as provided in section 11-707, Idaho Code.

(2) In case of service upon a corporation, including, but not limited to, any financial institution, the same may be had by delivering a copy of the papers to be served, if upon a private corporation, to any officer, manager or designated agent thereof, and, if upon a public or municipal corporation, to the mayor, president of the council or board of trustees, or any presiding officer, or to the secretary or clerk thereof.

(3) In the event a financial institution operates more than one (1) office where deposits are received within the state of Idaho, the banking or trust corporation may, by notifying the Idaho department of finance, designate a particular office for the service of attachment, execution and garnishment papers. Such office may be located either within or outside the state of Idaho. The Idaho department of finance shall post the list of such designated offices on its web page for access by the public.

(4) If a financial institution operating more than one (1) office where deposits are received has designated a particular office for the attachment,

execution, or garnishment, then service of such papers made on the office so designated shall be valid and effective as to moneys to the judgment debtor's credit held in the possession or control of any of the financial institution's branches or offices located within or outside the state of Idaho.

(5) If service of the attachment, execution or garnishment papers is not made on the designated office of the financial institution, but instead is made on another office of the financial institution located in the state of Idaho, then service of such papers shall be valid and effective as to moneys to the judgment debtor's credit in that particular office and as to other personal property belonging to the judgment debtor held in the possession or control of that particular office, but shall only become valid and effective as to moneys to the judgment debtor's credit held in the possession or control of any of the financial institution's other offices upon receipt of the attachment, execution or garnishment papers by the designated office. Such financial institution may, but is under no obligation to, transmit the original or a copy of the papers from the particular office served to the designated office.

(6) Service on any financial institution is effective as against the moneys and other personal property to the judgment debtor's credit which are in the possession or control of the financial institution named in the garnishment, but not any affiliate, parent or subsidiary not named. If the garnishment fails to sufficiently distinguish the financial institution from any affiliate, parent or subsidiary thereof, such that it is not clear which entity is intended to be the garnishee, the garnishment may be returned unsatisfied.

(47) The provisions of this section and sections 11-706, 11-707, 11-709 and 11-710, Idaho Code, shall apply to any levy by execution pursuant to chapter 5, title 8, Idaho Code.

SECTION 2. That Section 11-710, Idaho Code, be, and the same is hereby amended to read as follows:

11-710. SERVICE ON JUDGMENT DEBTOR AND THIRD PARTIES BY A FINANCIAL INSTITUTION. (1) If the writ and notice of garnishment are served upon a financial institution holding money or accounts belonging to the judgment debtor, the garnishee shall, within three (3) business days after such service, mail or hand deliver a copy of all documents served upon it by the sheriff:

(1a) To the judgment debtor at the address to which account statements or other pertinent account documentation are normally sent, or if the money is not in an account, to the last known address of the judgment debtor shown upon the records of the garnishee at the time of service upon it of the writ; and

(2b) To any other person shown upon the records of the garnishee as a co-owner or having an interest in the money or accounts garnished at the last known address of the third party shown upon the records of the garnishee at the time of service upon it of the writ.

(2) The financial institution shall be entitled to deduct a single fee of not to exceed ~~ten~~ twelve dollars (\$~~10~~2.00) from the money transferred to the sheriff pursuant to the garnishment to cover the costs associated with the processing and service of the documents. The fee herein provided shall be the only processing and service fee to which the financial institution is entitled, regardless of the number of parties to which documents are sent, and is in addition to the search fee specified in section 11-703(1) ~~(f)~~ (a) (vi), Idaho Code. Upon being notified by the sheriff that money transferred pursuant to the garnishment has been released as a result of a court determination that the money is exempt or a failure by the judgment creditor to contest the claim of exemption, the garnishee shall recredit the fee to the judgment debtor's account or reimburse the judgment debtor

therefor, and the judgment creditor shall reimburse the garnishee for the fee.

(3) The garnishee shall indicate in the answer to interrogatories as provided in section 11-708, Idaho Code, the date and manner of service of the documents upon the judgment debtor and any third party as herein required but shall not be required to disclose the names or addresses of any third party served.

(4) The garnishee shall only be required to serve on the judgment debtor, and any ~~third-party~~ third party, copies of those documents served upon it by the sheriff.

SECTION 3. That Section 11-714, Idaho Code, be, and the same is hereby amended to read as follows:

11-714. FINANCIAL INSTITUTION OBLIGATIONS WHEN SERVED WITH WRIT OF GARNISHMENT. (1) If a notice of garnishment is served upon a financial institution that has an account or accounts of the debtor, the financial institution shall conduct a garnishment review of all accounts in the name of the debtor before taking any action that may affect funds in those accounts.

(2) The garnishment review shall be limited to the ~~sixty-four (64) day~~ two (2) month period immediately preceding the date of service upon the financial institution of the garnishment. Solely for purposes of the garnishment review, any balance in the accounts on the ~~sixty-fourth day immediately preceding the date of service upon the financial institution of the garnishment~~ corresponding date of the month two (2) months earlier, or on the last date of the month two (2) months earlier if the corresponding date does not exist, shall be deemed to be exempt. If the financial institution determines, solely from information transmitted to the financial institution by the payor, that one (1) or more payments of exempt funds as described in section 11-713(1), (2) or (3), Idaho Code, were deposited by direct or electronic deposit payment in an account of the debtor, the total balance of deposited exempt funds in the debtor account is not subject to garnishment.

(3) The financial institution conducting the garnishment review need only review information transmitted to the financial institution by the payor of direct or electronic deposit payments in making its determination that funds in the accounts are of the types of payments described in section 11-713(1), (2) or (3), Idaho Code. The financial institution conducting the garnishment review shall have no obligation to inquire into the source of funds or examine any deposit item made by any means other than direct or electronic deposit, even if such review would disclose that the funds so deposited may be exempt from garnishment as described in section 11-713(1), (2) or (3), Idaho Code.

(4) If a notice of right to garnish federal benefits from the United States government or from a state child support enforcement agency is attached to or included in the garnishment as provided in 31 CFR 212, the financial institution shall not conduct a garnishment account review under this section and shall proceed on the garnishment.

(5) A financial institution conducting a garnishment review as required by this section is immune from civil liability to the garnishor, debtor or account owner from any act or omission with respect to the garnishment review, including without limitation, any incorrect determination made after applying good faith methods for determining whether funds in an account are exempt. If a court determines that a financial institution erred in its identification of funds in an account as exempt or nonexempt, the sole remedy in exemption proceedings shall be issuance of an order of the court that the financial institution must adjust its actions with respect to a writ of execution as soon as possible. A financial institution is not liable to an account holder or garnishor, and may not be assessed any penalty, by reason of any action or inaction in good faith including:

- (a) Failure to deliver any funds;
- (b) Failure to refuse to deliver any funds;
- (c) Failure to provide the required notices to an account holder;
- (d) Customary clearing and settlement adjustments made to a debtor's account that affect the balance in the debtor's account; and
- (e) Any bona fide errors that occur despite reasonable procedures implemented by the financial institution to prevent those errors.

SECTION 4. That Section 11-720, Idaho Code, be, and the same is hereby amended to read as follows:

11-720. EXCEPTION TO ANSWER -- AMENDMENT. The judgment creditor may, within thirty (30) days of the answer of the garnishee, except to the answer of the garnishee for insufficiency, and if adjudged insufficient, the court may allow him to amend it in such time and on such terms as shall be just.

Approved April 13, 2021

CHAPTER 187
(S.B. No. 1133, As Amended)

AN ACT

RELATING TO GUARDIANS OF MINORS; AMENDING SECTION 15-5-207, IDAHO CODE, TO LIMIT THE TIME DURING WHICH A TEMPORARY GUARDIANSHIP MAY BE EXTENDED, TO PROVIDE THAT A COURT MUST TAKE APPROPRIATE ACTION PRIOR TO THE END OF AN EXTENSION PERIOD, AND TO PROVIDE THAT NO TEMPORARY GUARDIANSHIP MAY LAST LONGER THAN TWELVE MONTHS IN TOTAL; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 15-5-207, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-207. COURT APPOINTMENT OF GUARDIAN OF MINOR -- PROCEDURE. (1) Proceedings for the appointment of a guardian or co-guardians may be initiated by the following persons:

- (a) Any relative of the minor;
 - (b) The minor if he is fourteen (14) or more years of age;
 - (c) Any person who comes within section 15-5-213(1), Idaho Code; or
 - (d) Any person interested in the welfare of the minor.
- (2) Notice of the time and place of hearing of a petition under this section is to be given by the petitioner in the manner prescribed by section 15-1-401, Idaho Code, to:
- (a) The minor, if he is fourteen (14) or more years of age;
 - (b) The person who has had the principal care and custody of the minor during the sixty (60) days preceding the date of the petition;
 - (c) Any person who comes within section 15-5-213(1), Idaho Code; and
 - (d) Any living parent of the minor; provided however, that the court may waive notice to a living parent of the minor who is, or is alleged to be, the father of the minor if:
 - (i) The father was never married to the mother of the minor and has failed to register his paternity as provided in section 16-1504(5), Idaho Code; or
 - (ii) The court has been shown to its satisfaction circumstances that would allow the entry of an order of termination of parental rights pursuant to section 16-2005, Idaho Code, even though termination of parental rights is not being sought as to such father.

(3) (a) As an alternative to appointing one (1) guardian for a minor, the court may appoint no more than two (2) persons as co-guardians for a minor if the court finds:

(i) The appointment of co-guardians will best serve the interests of the minor; and

(ii) The persons to be appointed as co-guardians will work together cooperatively to serve the best interests of the minor.

(b) If the court appoints co-guardians, the court shall also determine whether the guardians:

(i) May act independently;

(ii) May act independently but must act jointly in specified matters; or

(iii) Must act jointly.

This determination by the court must be stated in the order of appointment and in the letters of guardianship.

(4) If the court finds, upon hearing, that a qualified person seeks appointment, venue is proper, the required notices have been given, the requirements of section 15-5-204, Idaho Code, have been met, and the welfare and best interests of the minor will be served by the requested appointment, it shall make the appointment. In other cases the court may dismiss the proceedings, or make any other disposition of the matter that will best serve the interests of the minor.

(5) Prior to the appointment of a guardian:

(a) The court may appoint a temporary guardian for the minor if it finds by a preponderance of evidence that:

(i) A petition for guardianship under this section has been filed, but a guardian has not yet been appointed;

(ii) The appointment is necessary to protect the minor's health, safety or welfare until the petition can be heard; and

(iii) No other person appears to have the ability, authority and willingness to act.

(b) A temporary guardian may be appointed without notice or hearing if the minor is in the physical custody of the petitioner or proposed temporary guardian and the court finds from a statement made under oath that the minor may be immediately and substantially harmed before notice can be given or a hearing held.

(c) Notice of the appointment of a temporary guardian must be given to those designated in subsection (2) of this section within seventy-two (72) hours after the appointment. The notice must inform interested persons of the right to request a hearing. The court must hold a hearing on the appropriateness of the appointment within fourteen (14) days after request by an interested person. In all cases, either a hearing on the temporary guardianship or on the petition for guardianship itself must be held within ninety (90) days of the filing of any petition for guardianship of a minor.

(d) The temporary guardian's authority may not exceed six (6) months unless extended for good cause. Only one (1) such extension may be made, and the extension period must not last longer than six (6) additional months. The powers of the temporary guardian shall be limited to those necessary to protect the immediate health, safety or welfare of the minor until a hearing may be held and must include the care and custody of the minor.

(e) A temporary guardian must make reports as the court requires.

(6) When a minor is under guardianship:

(a) The court may appoint a temporary guardian if it finds:

(i) Substantial evidence that the previously appointed guardian is not performing the guardian's duties; and

(ii) The appointment of a temporary guardian is necessary to protect the minor's health, safety or welfare.

(b) A temporary guardian may be appointed without notice or hearing if the court finds from a statement made under oath that the minor may be immediately and substantially harmed before notice can be given or a hearing held.

(c) Notice of the appointment of a temporary guardian must be given to those designated in subsection (2) of this section within seventy-two (72) hours after the appointment. The notice must inform interested persons of the right to request a hearing. The court shall hold a hearing on the appropriateness of the appointment within fourteen (14) days after request by an interested person.

(d) The authority of a previously appointed guardian is suspended as long as a temporary guardian has authority. The court must hold a hearing before the expiration of the temporary guardian's authority and may enter any appropriate order. The temporary guardian's authority may not exceed six (6) months unless extended for good cause as provided in subsection (5)(d) of this section. Prior to the end of an extension period, the court must appoint a guardian other than a temporary guardian or take other appropriate action, but in no event may a temporary guardianship last longer than twelve (12) months in total.

(e) A temporary guardian must make reports as the court requires.

(7) The court shall appoint an attorney to represent the minor if the court determines that the minor possesses sufficient maturity to direct the attorney. If the court finds that the minor is not mature enough to direct an attorney, the court shall appoint a guardian ad litem for the minor. The court may decline to appoint an attorney or guardian ad litem if it finds in writing that such appointment is not necessary to serve the best interests of the minor or if the Idaho department of health and welfare has legal custody of the child.

(8) Letters of guardianship must indicate whether the guardian was appointed by will or by court order.

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

Approved April 13, 2021

CHAPTER 188
(S.B. No. 1165)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISIONS OF MENTAL HEALTH SERVICES, PSYCHIATRIC HOSPITALIZATION, AND SUBSTANCE ABUSE TREATMENT AND PREVENTION FOR FISCAL YEAR 2022; 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 REQUIREMENTS FOR PROGRAM INTEGRITY; LIMITING THE TRANSFER OF LEGISLATIVE APPROPRIATIONS; CLARIFYING RESPONSIBILITY FOR EDUCATION OF CERTAIN CHILDREN IN STATE CARE; DIRECTING AN INTERAGENCY PAYMENT FOR A JUVENILE DETENTION CLINICIANS CONTRACT; PROVIDING REQUIREMENTS REGARDING FUNDING FOR BEHAVIORAL HEALTH COMMUNITY CRISIS CENTERS; AND EXEMPTING THE APPROPRIATION FROM PROGRAM TRANSFER LIMITATIONS.

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, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MENTAL HEALTH SERVICES:				
A. CHILDREN'S MENTAL HEALTH:				
FROM:				
Cooperative Welfare (General)				
Fund	\$5,424,500	\$1,242,700	\$1,787,800	\$8,455,000
Cooperative Welfare (Dedicated)				
Fund			164,500	164,500
Cooperative Welfare (Federal)				
Fund	<u>2,973,100</u>	<u>1,934,200</u>	<u>1,092,600</u>	<u>5,999,900</u>
TOTAL	\$8,397,600	\$3,176,900	\$3,044,900	\$14,619,400
B. ADULT MENTAL HEALTH:				
FROM:				
Cooperative Welfare (General)				
Fund	\$15,393,300	\$2,445,800	\$10,043,800	\$27,882,900
Cooperative Welfare (Dedicated)				
Fund	67,900		350,000	417,900
Cooperative Welfare (Federal)				
Fund	<u>2,328,800</u>	<u>2,153,000</u>	<u>9,609,700</u>	<u>14,091,500</u>
TOTAL	\$17,790,000	\$4,598,800	\$20,003,500	\$42,392,300
DIVISION TOTAL	\$26,187,600	\$7,775,700	\$23,048,400	\$57,011,700
II. PSYCHIATRIC HOSPITALIZATION:				
A. COMMUNITY HOSPITALIZATION:				
FROM:				
Cooperative Welfare (General)				
Fund			\$1,069,000	\$1,069,000
B. STATE HOSPITAL NORTH:				
FROM:				
Cooperative Welfare (General)				
Fund	\$9,911,700	\$799,900	\$55,600	\$10,767,200
Cooperative Welfare (Dedicated)				
Fund	166,800			166,800
State Hospital North Endowment Income				
Fund	<u>427,000</u>	<u>1,138,100</u>	<u>94,400</u>	<u>1,659,500</u>
TOTAL	\$10,505,500	\$1,938,000	\$150,000	\$12,593,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
C. STATE HOSPITAL SOUTH:				
FROM:				
Cooperative Welfare (General)				
Fund	\$7,849,600		\$254,700	\$8,104,300
Cooperative Welfare (Dedicated)				
Fund	6,690,200	\$3,049,400	900	9,740,500
Mental Hospital Endowment Income				
Fund	4,198,500	2,285,500	30,000	6,514,000
Cooperative Welfare (Federal)				
Fund	<u>4,770,700</u>	<u>938,000</u>	<u>25,600</u>	<u>5,734,300</u>
TOTAL	\$23,509,000	\$6,272,900	\$311,200	\$30,093,100
D. STATE HOSPITAL WEST:				
FROM:				
Cooperative Welfare (General)				
Fund	\$1,685,700	\$476,400	\$8,300	\$2,170,400
Cooperative Welfare (Dedicated)				
Fund	200,000			200,000
Cooperative Welfare (Federal)				
Fund	<u>2,500,000</u>	<u>0</u>	<u>0</u>	<u>2,500,000</u>
TOTAL	\$4,385,700	\$476,400	\$8,300	\$4,870,400
DIVISION TOTAL	\$38,400,200	\$8,687,300	\$1,538,500	\$48,626,000
III. SUBSTANCE ABUSE TREATMENT & PREVENTION:				
FROM:				
Prevention of Minors' Access to Tobacco				
Fund		\$43,800		\$43,800
Cooperative Welfare (Dedicated)				
Fund		438,300		438,300
Liquor Control				
Fund			\$650,000	650,000
Idaho Millennium Income				
Fund		160,000	450,000	610,000
Cooperative Welfare (Federal)				
Fund	<u>\$1,153,400</u>	<u>4,959,200</u>	<u>17,392,400</u>	<u>23,505,000</u>
TOTAL	\$1,153,400	\$5,601,300	\$18,492,400	\$25,247,100
GRAND TOTAL	\$65,741,200	\$22,064,300	\$43,079,300	\$130,884,800

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 following number of full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Adult Mental Health	209.56
Children's Mental Health	97.67
State Hospital North	131.60
State Hospital South	286.25
State Hospital West	49.33
Substance Abuse Treatment and Prevention	16.00

SECTION 3. GENERAL FUND TRANSFERS. As appropriated, the Office of the State Controller shall periodically make transfers from the General Fund to the Cooperative Welfare Fund 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 appropriated in the trustee and benefit payments expense class shall not be transferred to any other expense classes during fiscal year 2022.

SECTION 5. PROGRAM INTEGRITY. Notwithstanding any other provision of law to the contrary, the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 6. LIMITING TRANSFER OF LEGISLATIVE APPROPRIATIONS. Notwithstanding the provisions of Section 67-3511, Idaho Code, Cooperative Welfare (General) Fund moneys appropriated to the Divisions of Mental Health Services and Psychiatric Hospitalization may be transferred between divisions but shall not be transferred to any other division or program within the Department of Health and Welfare without legislative approval.

SECTION 7. EDUCATIONAL NEEDS. The Department of Health and Welfare shall be responsible for the educational needs of school-age children placed in its custody by the courts for either child protective issues or mental health issues. If the department places a child in a licensed residential treatment facility that includes a nonpublic accredited school, and it is determined by the department that it is in the best interests of the child to be educated at the residential treatment facility, then it is the responsibility of the department to pay for such education per student, per educational day. Other Idaho state agencies shall not be precluded 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 section is included within existing department base appropriations.

SECTION 8. INTERAGENCY PAYMENT FOR JUVENILE DETENTION CLINICIANS CONTRACT. No later than July 16, 2021, the Children's Mental Health Program shall make an interagency payment of \$327,000 from the Cooperative Welfare (General) Fund to the Department of Juvenile Corrections to be used for the purchase of contract clinician services with juvenile detention facilities in Idaho for the period July 1, 2021, through June 30, 2022.

SECTION 9. BEHAVIORAL HEALTH COMMUNITY CRISIS CENTERS. The seven Behavioral Health Community Crisis Centers shall submit plans for achieving non-state funding, in conformance with the requirements of their contracts with the Department of Health and Welfare, that demonstrate the extent to which the centers will receive financial support from non-state sources for ongoing operations. These plans shall be submitted to the Legislative Services Office no later than December 31, 2021.

SECTION 10. EXEMPTIONS FROM PROGRAM TRANSFER LIMITATIONS. The Community Hospitalization Program is hereby exempted from the provisions of Section 67-3511(2), Idaho Code, allowing unlimited transfers into the Community Hospitalization Program from other programs within the Department of Health and Welfare for all moneys appropriated to it for the period July 1, 2021, through June 30, 2022.

Approved April 13, 2021

CHAPTER 189
(S.B. No. 1180)

AN ACT

RELATING TO THE APPROPRIATION TO THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 2022; 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 State Historical Society the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$2,355,800	\$1,536,300		\$31,600	\$3,923,700
Miscellaneous Revenue					
Fund	777,000	1,074,300	\$26,600		1,877,900
Records Management Service					
Fund	164,400	156,500			320,900
Capitol Commission Operating					
Fund	73,000	53,500			126,500
Federal Grant					
Fund	<u>1,029,900</u>	<u>476,600</u>	<u>0</u>	<u>130,000</u>	<u>1,636,500</u>
TOTAL	\$4,400,100	\$3,297,200	\$26,600	\$161,600	\$7,885,500

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Idaho State Historical Society is authorized no more than fifty-seven (57.00) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved April 13, 2021

CHAPTER 190
(S.B. No. 1184)

AN ACT

RELATING TO THE APPROPRIATION TO THE OFFICE OF THE SECRETARY OF STATE FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE OFFICE OF THE SECRETARY OF STATE FOR FISCAL YEAR 2022; 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 the Secretary of State the following amounts to be expended according to the designated programs and expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. SECRETARY OF STATE:			
FROM:			
General			
Fund	\$2,422,600	\$1,140,100	\$3,562,700
II. COMMISSION ON UNIFORM STATE LAWS:			
FROM:			
General			
Fund		\$53,000	\$53,000
GRAND TOTAL	\$2,422,600	\$1,193,100	\$3,615,700

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Office of the Secretary of State is authorized no more than thirty (30.00) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved April 13, 2021

CHAPTER 191
(H.B. No. 103)

AN ACT

RELATING TO THE IDAHO NONPROFIT CORPORATION ACT; AMENDING SECTION 30-30-511, IDAHO CODE, TO PROVIDE FOR REMOTE COMMUNICATION IN CERTAIN CIRCUMSTANCES.

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

SECTION 1. That Section 30-30-511, Idaho Code, be, and the same is hereby amended to read as follows:

30-30-511. QUORUM REQUIREMENTS. (1) Unless this act, the articles, or bylaws provide for a higher or lower quorum, ten percent (10%) of the votes entitled to be cast on a matter must be represented in person, by proxy, by mailed written ballot, ~~or~~ by absentee ballot, or by means of remote communication to the extent authorized by the board of directors at a meeting of members to constitute a quorum on that matter.

(2) A bylaw amendment to decrease the quorum for any member action may be approved by the members or, unless prohibited by the bylaws, by the board.

(3) A bylaw amendment to increase the quorum required for any member action must be approved by the members.

(4) Unless one-third (1/3) or more of the voting power is present in person, by proxy, by mailed written ballot, ~~or~~ by absentee ballot, or by means of remote communication to the extent authorized by the board of directors, the only matters that may be voted upon at an annual or regular meeting of members are those matters that are described in the meeting notice.

Approved April 13, 2021

CHAPTER 192
(H.B. No. 131)

AN ACT

RELATING TO COUNTY COMMISSIONERS AND HIGHWAY OFFICERS; AMENDING SECTION 40-616, IDAHO CODE, TO PROVIDE AN OPTION FOR WIDER SIDEWALKS OR SIDE PATHS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 40-616, Idaho Code, be, and the same is hereby amended to read as follows:

40-616. SIDEWALKS OR SIDE PATHS. Commissioners and boards of commissioners of any highway district are empowered to set apart on and along any public highway outside the boundaries of incorporated cities a strip of land not exceeding eight (8) feet in width for a sidewalk or side path and to make an order designating the width of the path and to cause the line separating the path from the highway proper to be located and marked with stakes, posts, grade, or other marker, unless the governing board makes a written finding supporting the public necessity for a sidewalk or side path of greater width. After the sidewalks and paths have been set apart and the line separating them from the highway has been located and marked, the use shall be restricted to pedestrians, riders of bicycles, and riders of electric-assisted bicycles, if not otherwise prohibited by local ordinance or by signage posted by the public agency with jurisdiction after notice by inclusion on a governing board agenda.

Approved April 13, 2021

CHAPTER 193
(H.B. No. 132, As Amended)

AN ACT

RELATING TO HIGHWAYS AND BRIDGES; AMENDING CHAPTER 5, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-513G, IDAHO CODE, TO DESIGNATE THE PORTION OF U.S. HIGHWAY 26 LOCATED IN IDAHO AS THE POW/MIA MEMORIAL HIGHWAY.

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

SECTION 1. That Chapter 5, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-513G, Idaho Code, and to read as follows:

40-513G. DESIGNATION OF THE POW/MIA MEMORIAL HIGHWAY. The portion of U.S. highway 26 located in Idaho beginning at the Oregon border and ending at the Wyoming border shall be known as the "POW/MIA Memorial Highway." The Idaho transportation department may place and maintain suitable signs at each end of the portion of U.S. highway 26 located in Idaho and may place markers at intermediate sites along the highway to clearly identify it as the "POW/MIA Memorial Highway." Provided, the department shall not place such signs or markers where other current special designations exist. The department will determine the location of any signs in the road right-of-way based on safety considerations. The department may work with the POW/MIA organization for the design of any signs and may accept moneys from various groups to create, install, and maintain the signs provided for in this section.

Approved April 13, 2021

CHAPTER 194
(H.B. No. 138)

AN ACT

RELATING TO THE DEPARTMENT OF ADMINISTRATION; REPEALING SECTION 57-1102, IDAHO CODE, RELATING TO THE TRANSFER OF UNEXPENDED APPROPRIATION FOR REMODELING SCHOOL BUILDINGS; REPEALING SECTION 57-1103, IDAHO CODE, RELATING TO THE TRANSFER OF UNEXPENDED APPROPRIATION FOR REMODELING HOSPITAL BUILDINGS; AND REPEALING SECTION 57-1104, IDAHO CODE, RELATING TO THE TRANSFER OF UNEXPENDED BALANCES IN CERTAIN BOND ACCOUNTS.

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

SECTION 1. That Section 57-1102, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 57-1103, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 57-1104, Idaho Code, be, and the same is hereby repealed.

Approved April 13, 2021

CHAPTER 195
(H.B. No. 139)

AN ACT

RELATING TO THE STATE PERSONNEL SYSTEM; AMENDING SECTION 67-5334, IDAHO CODE, TO PROVIDE THAT AN EMPLOYEE MAY DONATE SICK LEAVE IN ADDITION TO VACATION LEAVE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-5334, Idaho Code, be, and the same is hereby amended to read as follows:

67-5334. VACATION TIME. (1) Vacation time shall be computed as follows:

(a) Vacation time shall not accrue to any officer or employee on any kind of leave of absence without pay, suspension without pay or layoff. Vacation leave shall accrue while an officer or employee is on approved leave with pay, on approved vacation leave, on approved military leave with pay, and on approved sick leave, but not when compensatory time is taken.

(b) The rate per hour at which vacation leave shall accrue to eligible classified officers and employees earning credited state service who are covered and nonexempt under the federal fair labor standards act, 29 U.S.C. section 201, et seq., shall be at the rate represented by the proportion 96/2080 during the first ten thousand four hundred (10,400) hours of credited state service; at the rate represented by the proportion 120/2080 during the second ten thousand four hundred (10,400) hours of credited state service; at the rate represented by the proportion 144/2080 during the third ten thousand four hundred (10,400) hours of credited state service; and at the rate represented by the proportion 168/2080 thereafter.

(c) Classified officers and employees earning credited state service and defined as an exempt "professional," "administrative," "computer worker" under the federal fair labor standards act, 29 U.S.C. section 201, et seq., or who are designated as exempt under any other complete exemption in federal law shall be at the rate represented by the proportion 120/2080 during the first ten thousand four hundred (10,400) hours of credited state service; at the rate represented by the proportion 144/2080 during the second ten thousand four hundred (10,400) hours of credited state service; and at the rate represented by the proportion 168/2080 thereafter.

(d) Classified officers and employees earning credited state service and defined as an exempt "executive" under section 67-5302, Idaho Code, shall be at the rate represented by the proportion 200/2080.

(2) Eligibility and use of vacation time shall be determined as follows:

(a) An appointing authority shall permit each officer or employee to take vacation leave to the extent such leave has accrued.

(b) Vacation leave may be accrued and accumulated only as follows, unless amounts in excess of the permitted accumulations have been expressly authorized in writing by the board of examiners during unusual or emergency situations:

During the first ten thousand four hundred (10,400) hours of credited state service, vacation leave may be accrued and accumulated to a maximum of one hundred ninety-two (192) hours; employees classified as "executive" under section 67-5302, Idaho Code, may accrue and accumulate vacation leave to a maximum of two hundred (200) hours during this period;

During the second ten thousand four hundred (10,400) hours of credited state service, vacation leave may be accrued and accumulated to a maximum of two hundred forty (240) hours;

During the third ten thousand four hundred (10,400) hours of credited state service, vacation leave may be accrued and accumulated to a maximum of two hundred eighty-eight (288) hours;

After thirty-one thousand two hundred (31,200) hours of credited state service, vacation leave may be accrued and accumulated to a maximum of three hundred thirty-six (336) hours.

(c) Vacation leave shall be transferable from department to department only to the extent that it is accrued and accumulated.

(d) Vacation leave shall not be earned, accrued or accumulated during any pay period in which the maximum accruals and accumulations provided by this section have been met.

(e) Vacation leave not taken shall be compensated for at the time of separation only to the maximum accruals and accumulations allowed by this section.

(f) Vacation leave shall be taken on a workday basis. Regularly scheduled days off and officially designated holidays falling within a period of vacation leave shall not be counted against vacation leave. Vacation leave shall not be taken in advance of being earned and shall only be taken in pay periods subsequent to being earned.

(g) With the approval of the appointing authority for both the transferring and receiving officer or employee, an officer or employee may transfer accrued vacation or sick leave, up to a maximum of eighty (80) hours per fiscal year, to another officer or employee for purposes of sick leave in the event the receiving officer or employee or a family member suffers from a serious illness or injury. The amount transferred shall be converted to sick leave. An officer or employee shall not be allowed to receive more than one hundred sixty (160) hours of transferred leave per fiscal year, and a transfer shall not occur until the receiving employee has exhausted all of his or her accrued sick and vacation leave. An officer or employee shall not be eligible to transfer vacation or sick leave unless his or her balance exceeds eighty (80) hours, and in no event may an officer or employee transfer an amount of accrued leave ~~which~~ that would result in an accrued balance of less than eighty (80) hours.

(3) Upon separation from state employment and to the limits allowed by subsection (2) of this section, all classified officers and employees shall receive a lump sum payment for accrued but unused vacation leave at the hourly rate of pay of that officer or employee.

Approved April 13, 2021

CHAPTER 196
(H.B. No. 150)

AN ACT

RELATING TO THE IDAHO COMMISSION OF PARDONS AND PAROLE; AMENDING SECTION 20-201, IDAHO CODE, TO REVISE TERMINOLOGY AND TO PROVIDE FOR THE IDAHO COMMISSION OF PARDONS AND PAROLE; AMENDING TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 10, TITLE 20, IDAHO CODE, TO ESTABLISH THE IDAHO COMMISSION OF PARDONS AND PAROLE AND TO DEFINE TERMS; AMENDING SECTION 20-210, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE PROVISIONS REGARDING THE APPOINTMENT, QUALIFICATIONS, TERMS, COMPENSATION, AND MEETINGS OF THE COMMISSION, TO PROVIDE FOR THE EXECUTIVE DIRECTOR AND STAFF, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 20-213A, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE TERMINOLOGY, TO PROVIDE A CORRECT CODE REFERENCE, TO PROVIDE A CERTAIN REQUIREMENT FOR OPEN MEETINGS, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 20-210A, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS REGARDING THE DUTIES AND POWERS OF THE COMMISSION; AMENDING SECTION 20-223, IDAHO CODE, TO REVISE A PROVISION REGARDING LEGISLATIVE INTENT, TO PROVIDE THAT THE DEPARTMENT OF CORRECTION AND BOARD SHALL ASSIST THE COMMISSION, TO REMOVE PROVISIONS REGARDING PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATIONS, AND TO REVISE PROVISIONS REGARDING REPORTING; AMENDING CHAPTER 10, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 20-1005, IDAHO CODE, TO PROVIDE FOR RULES GOVERNING PAROLE, LEGISLATIVE INTENT, CERTAIN RESTRICTIONS, AND CERTAIN REQUIRED EXAMINATIONS AND REPORTING; AMENDING CHAPTER 10, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 20-1006, IDAHO CODE, TO PROVIDE FOR MEDICAL PAROLE AND CERTAIN REQUIRED REPORTING; AMENDING SECTION 20-228, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE TERMINOLOGY, TO PROVIDE A CORRECT CODE REFERENCE, AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 20-229, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE TERMINOLOGY, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 20-229A, IDAHO CODE, TO REDESIGNATE THE SECTION, TO CLARIFY PROVISIONS REGARDING SERVICE TO AN ALLEGED VIOLATOR AND A WAIVER, TO REVISE TERMINOLOGY, AND TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 20-229B, IDAHO

CODE, TO REDESIGNATE THE SECTION, TO CLARIFY PROVISIONS REGARDING COMMISSION RULINGS, TO REVISE TERMINOLOGY, TO PROVIDE A CORRECT CODE REFERENCE, AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 20-231, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 20-233, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE TERMINOLOGY, AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 20-234, IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE TERMINOLOGY, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 20-104, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE TERMINOLOGY; AMENDING SECTION 20-240, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 20-240A, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 20-213, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO REVISE PROVISIONS REGARDING PUBLICATIONS AND A LIMITATION ON APPLICATIONS; AMENDING SECTION 20-240B, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO CLARIFY A PROVISION REGARDING NOTICE OF GRANTED PARDON; AMENDING SECTION 19-2513, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 19-2515, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 19-2715, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 19-4213, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 20-209G, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND AMENDING SECTION 74-105, IDAHO CODE, TO REVISE TERMINOLOGY AND TO PROVIDE CORRECT CODE REFERENCES.

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

SECTION 1. That Section 20-201, Idaho Code, be, and the same is hereby amended to read as follows:

20-201. DEPARTMENT OF CORRECTION CREATED. There is hereby created the department of correction, which shall consist of the state board of correction and the Idaho commission of pardons and parole. The department of correction shall, for the purposes of section 20, article IV, of the constitution of the state of Idaho, be an executive department of state government. The Idaho commission of pardons and parole will operate and function as outlined in chapter 10, title 20, Idaho Code, and as otherwise provided by law.

SECTION 2. That Title 20, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 10, Title 20, Idaho Code, and to read as follows:

CHAPTER 10
IDAHO COMMISSION OF PARDONS AND PAROLE

20-1001. DEFINITIONS. As used in this chapter, unless the context clearly indicates or requires otherwise, the following terms shall be defined as follows:

- (1) "Board" means the state board of correction.
- (2) "Commission" means the Idaho commission of pardons and parole.
- (3) "Executive director" means the executive director of the commission.

SECTION 3. That Section 20-210, Idaho Code, be, and the same is hereby amended to read as follows:

~~20-2101002. COMMISSION OF PARDONS AND PAROLE CREATED -- APPOINTMENT -- QUALIFICATIONS -- TERMS -- SALARY MEETINGS -- COMPENSATION -- EXECUTIVE DIRECTOR AND STAFF.~~ (1) The governor shall appoint a state commission of pardons and parole, each member of which shall be subject to the advice and consent of the senate, ~~in this chapter referred to as the commission,~~ which shall succeed to and have all rights, powers and authority of said board of pardons as are granted and provided by the provisions of the constitution of the state of Idaho.

(2) The commission shall be composed of seven (7) members. The members shall serve at the pleasure of the governor and not more than four (4) members shall be from any one (1) political party.

~~(3) The members of the commission shall be appointed for the purposes of organization as follows: Members on the commission on the effective date of this act, shall serve out the remainder of their terms; thereafter, as members' terms expire, the governor shall reappoint them or appoint new members to serve terms of Terms on the commission shall be for three (3) years, and vacancies in the commission for unexpired terms shall be by appointment by the governor for the remainder of the term and all appointees may be reappointed.~~

(4) The commission and the board may meet as necessary to exchange such information to enable each to effectively carry out their respective duties.

(5) The commission shall meet at such times and places as determined to be necessary and convenient, or at the call of the executive director, and in any event no less than quarterly.

~~(6) Two (2) members of the commission commissioners may meet to make decisions on the disposition of parole violations. Such decisions must be unanimous, and in the event they are not unanimous, then the parole violation disposition decision will be made by a majority of the full commission either at the next quarterly meeting or special meeting.~~

~~(7) Three (3) members of the commission commissioners may meet to make decisions to grant or deny parole. Such decisions must be unanimous, and in the event they are not unanimous, then the decision to grant or deny parole will be made by a majority of the full commission at the next quarterly meeting.~~

(8) ~~The members~~ Commissioners shall be compensated as provided by section 59-509(i), Idaho Code, when attending quarterly meetings conducted at a date and time separate from a hearing session or other meetings approved by the executive director. ~~The members~~ Commissioners shall receive compensation of three hundred dollars (\$300) per member commissioner per day when conducting parole, commutation, pardon, revocation or other hearings, and shall be reimbursed for actual and necessary expenses subject to the limitations provided in section 67-2008, Idaho Code.

~~(9) The governor will liberally allow the reasonable payment for services of such technical and professional advice and consultation as the commission may require.~~ The governor shall appoint the executive director for the commission. The executive director shall be the full-time employee who shall report to, serve at the pleasure of, and be compensated as determined by the governor. The executive director shall be the official representative for the commission, shall be responsible for the managing and administration of daily commission business and shall schedule hearing sessions at times convenient to the ~~members of the commission~~ commissioners. For each scheduled session, the executive director shall designate one (1) of the ~~members of the commission~~ commissioners as the presiding officer for conducting the hearings. The executive director may hire such staff and employees as are approved by the governor. The executive director shall also have such other duties and responsibilities as the governor shall assign.

SECTION 4. That Section 20-213A, Idaho Code, be, and the same is hereby amended to read as follows:

20-213A1003. COMPLIANCE WITH OPEN MEETINGS LAW -- EXECUTIVE SESSIONS AUTHORIZED -- REPORT REQUIRED. (1) All meetings and hearings of the commission ~~of pardons and parole~~ shall be held in accordance with the open meetings law as provided in chapter 2, title 74, Idaho Code, except:

(a) An initial review of an application for a request for parole, pardon, commutation or firearm restoration may be held in executive session. The executive session shall be limited to a decision as to whether a hearing should be granted;

(b) When a hearing is granted, it will be conducted in open session. Pursuant to section 74-206, Idaho Code, deliberations and voting concerning the granting, revoking, reinstating or refusing of paroles; the granting or denying of pardons or commutations; or the granting or denying of firearm restorations shall be made in executive session;

(c) Votes of individual members in arriving at the parole, pardon, firearm restoration or commutation decisions shall not be made public, provided that the commission shall maintain a record of the votes of the individual members as required in subsection (23) of this section; and

(ed) Meetings of less than a majority of the commission to make decisions concerning the grant or denial of parole or the disposition of parole violations as provided in section ~~20-2101002~~, Idaho Code.

(2) In order to satisfy the requirements of section 74-203(5), Idaho Code, when the commission meets using telecommunications devices, the executive director may designate an employee of the commission to be present at the physical location of the meeting.

(3) A written record of the vote to grant or deny parole, pardon, firearm restoration or commutation by each commission member in each case reviewed by that member shall be made by the commission. The record produced by the commission pursuant to this section shall be kept confidential and privileged from disclosure, provided the record shall be made available, upon request, to the governor or the governor's representative, the chairman and most senior minority member of the senate judiciary and rules committee, and the chairman and most senior minority member of the house of representatives judiciary, rules and administration committee, for all lawful purposes. All committee members and representatives of the governor's office shall keep such record confidential. Distribution of the report by a commissioner or an employee of the executive director to any person not specifically listed in this section shall be a misdemeanor.

(34) Nothing contained in this section shall prevent any person from obtaining the results of any parole, pardon, firearm restoration or commutation action by the commission without reference to the manner in which any member voted, and the commission shall make such information public information.

(45) Nothing contained ~~herein in this section~~ shall prevent the executive director ~~for the commission~~ or designated staff of the executive director from attending any meeting, including an executive session of the commission ~~of pardons and parole~~.

(56) Nothing contained ~~herein in this section~~ shall prevent the governor, the governor's representative, the chairman and most senior minority member of the senate judiciary and rules committee, and the chairman and most senior minority member of the house of representatives judiciary, rules and administration committee from attending any meeting, including an executive session of the commission ~~of pardons and parole~~.

SECTION 5. That Section 20-210A, Idaho Code, be, and the same is hereby amended to read as follows:

20-210A1004. COMMISSION OF PARDONS AND PAROLE --- DUTIES AND POWERS OF THE COMMISSION. The commission of pardons and parole shall:

(1) Have the powers relating to commutation, pardon and remission of fines and forfeitures as set forth in section 7, article IV, of the Idaho constitution;

(2) Subject to and consistent with the provisions of this chapter and section 19-2513, Idaho Code, decide whether any prisoner who is eligible for parole may be released on parole;

(3) Subject to and consistent with the provisions of ~~this chapter section 7, article IV, of the constitution of the state of Idaho; chapter 2, title 20, Idaho Code; and section 19-2513, Idaho Code;~~ and in compliance with chapter 52, title 67, Idaho Code, promulgate rules to establish the procedures to carry out the provisions of this chapter, including procedures under which any eligible prisoner may be released on parole;

(4) Specify in writing the conditions of parole for every prisoner released on parole and provide every prisoner released on parole with a copy of the conditions of parole;

(5) Subject to and consistent with the provisions of this chapter, issue orders of final discharge from parole for eligible parolees; and

(6) Carry out all other duties and powers relating to the commission as set forth in Idaho Code.

SECTION 6. That Section 20-223, Idaho Code, be, and the same is hereby amended to read as follows:

20-223. PAROLE AND RULES GOVERNING -- RESTRICTIONS LEGISLATIVE INTENT -- PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION REQUIRED REPORT. (1) It is the intent of the legislature to focus prison space on those who commit the most serious offenses or who have the highest likelihood of offending in the future, and the commission, consistent with the provisions of this subsection, shall promulgate rules that establish clear guidelines and procedures that retain the commission's discretion in individual cases.

(2) Subject to section 19-2513, Idaho Code, the commission shall have the power to establish rules in compliance with chapter 52, title 67, Idaho Code, under which any prisoner, excepting any under sentence of death, may be allowed to go upon parole but to remain while on parole in the legal custody and under the control of the board and subject to be taken back into confinement at the direction of the commission. The department of correction and board shall assist the commission where required by law and, consistent with subsection (1) of this section, in carrying out the provisions of chapter 10, title 20, Idaho Code.

(3) ~~Any prisoner who is granted parole under the interstate compact may be required to post a bond prior to release or prior to such acceptance under the interstate compact; such bond may be posted by the prisoner, the prisoner's family, or other interested party. Failure to successfully complete parole may be grounds for forfeiture of the bond. Upon successful completion of parole, the amount of the bond may be returned, less an amount for administrative costs as determined by commission rule, in compliance with chapter 52, title 67, Idaho Code. A request must be made for return of the bond within one (1) year of discharge of the offense for which the particular offender was serving parole. Funds collected through the bonding process will be placed in a separate commission receipts fund which is hereby created in the state treasury and utilized for the extradition of parole violators.~~

(4) ~~No person serving a sentence for rape, incest, committing a lewd act upon a child, crime against nature, or with an intent or an assault with intent to commit any such crimes, or whose history and conduct indicate to~~

~~the commission that he is a sexually dangerous person, shall be released on parole except upon the examination and evaluation of one (1) or more psychiatrists or psychologists or mental health professionals designated for this purpose by the department of correction to be selected by the commission and such evaluation shall be duly considered by the commission in making its parole determination. The commission may, in its discretion, likewise require a similar examination and evaluation for persons serving sentences for crimes other than those above enumerated. No person making such evaluation shall be held financially responsible to any person for denial of parole by the commission or for the results of the future acts of such person if he be granted parole.~~

~~(5) Before considering the parole of any prisoner, the commission shall ensure that a risk assessment has been conducted pursuant to section 20-224, Idaho Code, and shall afford the prisoner the opportunity to be interviewed by the commission, a commissioner or other designated commission staff. A designated report and risk assessment, prepared by commission staff or a designated department of correction employee, that is specifically to be used by the commission in making a parole determination shall be exempt from public disclosure; such reports contain information from the presentence investigation report, medical or psychological information, the results of a risk assessment, victim information, designated confidential witness information and criminal history information. A parole shall be ordered when, in the discretion of the commission, it is in the best interests of society, and the commission believes the prisoner is able and willing to fulfill the obligations of a law-abiding citizen. Such determination shall not be a reward of clemency and it shall not be considered to be a reduction of sentence or a pardon. The commission may also by its rules fix the times and conditions under which any application denied may be reconsidered. No action may be maintained against the commission and/or any of its members in any court in connection with any decision taken by the commission to parole a prisoner and neither the commission nor its members shall be liable in any way for its action with respect thereto.~~

~~(6) In making any parole or commutation decision with respect to a prisoner, the commission shall consider the current risk assessment, criminal history, program participation, compliance and completion, institutional misconduct and other individual characteristics related to the likelihood of offending in the future, as well as the compliance of the prisoner with any order of restitution which may have been entered according to section 19-5304, Idaho Code. The commission may make compliance with such an order of restitution a condition of parole.~~

~~(7) Except as provided in subsection (2) of this section, no provision of chapter 52, title 67, Idaho Code, shall apply to the commission.~~

~~(8) Subject to the limitations of this subsection and notwithstanding any fixed term of confinement or minimum period of confinement as provided in section 19-2513, Idaho Code, the commission may parole an inmate for medical reasons. A prisoner may be considered for medical parole only when the prisoner is permanently incapacitated or terminally ill and when the commission reasonably believes the prisoner no longer poses a threat to the safety of society. For the purposes of this section, "permanently incapacitated" shall mean a person who, by reason of an existing physical condition that is not terminal, is permanently and irreversibly physically incapacitated. For the purposes of this section "terminally ill" shall mean a person who has an incurable condition caused by illness or disease and who is irreversibly terminally ill.~~

~~(9) The commission shall prepare and send to the house of representatives and senate judiciary committees annually a report containing the names, medical condition and current status of all persons granted parole pursuant to subsection (8) of this section.~~

(103) The department of correction shall promulgate rules in consultation with the commission to prepare prisoners for parole. The department of correction shall create sufficient programming opportunities, such that lack of access to programming is not the primary cause in delaying parole eligibility. The department shall promulgate rules to include case plan development upon entry into prison and a current risk assessment before all parole hearings.

(114) ~~By February 1, 2015, and by February 1 of each year thereafter,~~ the department of correction and the commission shall submit a report to the ~~legislature and governor, the senate judiciary and rules committee, and the house of representatives judiciary, rules, and administration committee~~ that describes the most common reasons for delay or denial of release, including statistical data supporting the conclusions of the report.

SECTION 7. That Chapter 10, Title 20, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 20-1005, Idaho Code, and to read as follows:

20-1005. RULES GOVERNING PAROLE -- LEGISLATIVE INTENT -- RESTRICTIONS -- REQUIRED PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION -- REQUIRED REPORT. (1) It is the intent of the legislature to focus prison space on those who commit the most serious offenses or who have the highest likelihood of offending in the future, and the commission, consistent with the provisions of this subsection, shall promulgate rules that establish clear guidelines and procedures that retain the commission's discretion in individual cases.

(2) Subject to the provisions of section 20-1004, Idaho Code, the commission shall have the power to establish rules under which any prisoner, excepting any under sentence of death, may be allowed to go upon parole but to remain while on parole in the legal custody and under the control of the board and subject to be taken back into confinement at the direction of the commission.

(3) Any prisoner who is granted parole under the interstate compact may be required to post a bond prior to release or prior to such acceptance under the interstate compact; such bond may be posted by the prisoner, the prisoner's family, or other interested party. Failure to successfully complete parole may be grounds for forfeiture of the bond. Upon successful completion of parole, the amount of the bond may be returned, less an amount for administrative costs as determined by commission rule, in compliance with chapter 52, title 67, Idaho Code. A request shall be made for return of the bond within one (1) year of discharge of the offense for which the particular offender was serving parole. Funds collected through the bonding process will be placed in a separate commission receipts fund that is hereby created in the state treasury and utilized for the extradition of parole violators.

(4) No person serving a sentence for rape, incest, committing a lewd act upon a child, crime against nature, or with an intent or an assault with intent to commit any such crimes, or whose history and conduct indicate to the commission that the person is a sexually dangerous person, shall be released on parole except upon the examination and evaluation of one (1) or more psychiatrists or psychologists or mental health professionals designated for this purpose by the department to be selected by the commission, and such evaluation shall be duly considered by the commission in making its parole determination. The commission may, in its discretion, likewise require a similar examination and evaluation for persons serving sentences for crimes other than those described in this subsection. No person making such evaluation shall be held financially responsible to any person for denial of parole by the commission or for the results of the future acts of such person if granted parole.

(5) Before considering the parole of any prisoner, the commission shall ensure that a risk assessment has been conducted pursuant to section 20-224,

Idaho Code, and shall afford the prisoner the opportunity to be interviewed by the commission, a commissioner, or other commission staff designated by the executive director. A designated report and risk assessment, prepared by commission staff or a designated department of correction employee, that is specifically to be used by the commission in making a parole determination shall be exempt from public disclosure; such reports contain information from the presentence investigation report, medical or psychological information, the results of a risk assessment, victim information, designated confidential witness information, and criminal history information. A parole shall be ordered when, in the discretion of the commission, it is in the best interests of society and the commission believes the prisoner is able and willing to fulfill the obligations of a law-abiding citizen. Such determination shall not be a reward of clemency, and it shall not be considered to be a reduction of sentence or a pardon. The commission may also by its rules fix the times and conditions under which any application denied may be reconsidered. No action may be maintained against the commission or any of its members in any court in connection with any decision taken by the commission to parole a prisoner, and neither the commission nor its members shall be liable in any way for its action with respect thereto.

(6) In making any parole or commutation decision with respect to a prisoner, the commission shall consider the current risk assessment, criminal history, program participation, compliance and completion, institutional misconduct, and other individual characteristics related to the likelihood of offending in the future, as well as the compliance of the prisoner with any order of restitution that may have been entered according to section 19-5304, Idaho Code. The commission may make compliance with such an order of restitution a condition of parole.

(7) Except as provided in section 20-1004(3), Idaho Code, no provision of chapter 52, title 67, Idaho Code, shall apply to the commission.

(8) By February 1 of each year, the department and the commission shall submit a report to the governor, the senate judiciary and rules committee, and the house of representatives judiciary, rules, and administration committee that describes the most common reasons for delay or denial of release, including statistical data supporting the conclusions of the report.

SECTION 8. That Chapter 10, Title 20, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 20-1006, Idaho Code, and to read as follows:

20-1006. **MEDICAL PAROLE -- REQUIRED REPORT.** (1) Subject to the limitations of this section and section 20-1005, Idaho Code, and notwithstanding any fixed term of confinement or minimum period of confinement as provided in section 19-2513, Idaho Code, the commission may parole an inmate for medical reasons. A prisoner may be considered for medical parole only when the prisoner is permanently incapacitated or terminally ill and when the commission reasonably believes the prisoner no longer poses a threat to the safety of society.

(2) The commission shall annually prepare and send to the governor, the senate judiciary and rules committee, and the house of representatives judiciary, rules, and administration committee a report containing the name and current legal status of all persons granted parole pursuant to this section.

(3) As used in this section:

(a) "Permanently incapacitated" means a person who, by reason of an existing physical condition that is not terminal, is permanently and irreversibly physically incapacitated; and

(b) "Terminally ill" means person who has an incurable condition caused by illness or disease and who is irreversibly, terminally ill.

SECTION 9. That Section 20-228, Idaho Code, be, and the same is hereby amended to read as follows:

20-2281007. CONDITIONS OF PAROLE TO BE SPECIFIED IN WRITING -- WARRANT FOR ARREST OF SUSPECTED VIOLATORS -- EFFECT OF SUSPENSION AND ARREST. The ~~commission for pardons and parole,~~ in releasing a person on parole, shall specify in writing the conditions of parole, and a copy of such conditions shall be given to the person paroled. The commission shall include in the conditions of parole a requirement that the defendant enter into and comply with an agreement of supervision with the board of correction. The agreement of supervision shall include provisions setting forth the potential sanctions for a violation of the conditions imposed and potential rewards for compliance with the conditions imposed, as such sanctions and rewards are set forth in rules of the board. Whenever the commission finds that a parolee may have violated the conditions of parole, the written order of the commission, signed by a member or members of the commission or the executive director, shall be sufficient warrant for any law enforcement officer to take into custody such person, and it is hereby made the duty of all sheriffs, police, constables, parole and probation officers, prison officials and other peace officers, to execute such order. Such warrant shall serve to suspend the person's parole until a determination on the merits of the allegations of the violation has been made pursuant to a revocation hearing. From and after the issuance of the warrant and suspension of the parole of any convicted person and until arrest, the parolee shall be considered a fugitive from justice. Such person so recommitted, except as provided in section 20-229B1010, Idaho Code, must serve out the sentence, and the time during which such prisoner was out on parole shall not be deemed a part thereof, unless the commission, in its discretion, shall determine otherwise, but nothing herein contained shall prevent the commission from again paroling such prisoners at its discretion.

SECTION 10. That Section 20-229, Idaho Code, be, and the same is hereby amended to read as follows:

20-2291008. PAROLE REVOCATION HEARING. (1) Whenever a paroled prisoner is accused of a violation of parole, other than by absconding supervision or the commission of, and conviction for, a felony or misdemeanor offense under the laws of this state, or any other state, or any federal laws, the parolee shall be entitled to a fair and impartial hearing of such charges within thirty (30) days from the date the accused is served with the charges of the violation of conditions of parole subsequent to arrest and detention. The hearing shall be held before one (1) or more members of the commission ~~for pardons and parole,~~ or before an impartial hearings officer selected by the executive director. Such hearing shall be held at a place or places, within this state, reasonably near the site of the alleged violation or violations of parole. If the parolee has been supervised outside of the state of Idaho and such violations occurred outside of Idaho, the executive director or hearing officer shall determine the location of the hearing.

(2) Whenever a paroled prisoner is accused of a violation of parole by absconding supervision or the commission of, and conviction for, a felony or misdemeanor offense under the laws of this state, or any other state, or any federal laws, the parolee shall be entitled to a fair and impartial hearing within a reasonable time from the date the accused is served with such charges. The location of such hearing shall be determined by the executive director or hearing officer.

SECTION 11. That Section 20-229A, Idaho Code, be, and the same is hereby amended to read as follows:

20-229A1009. NOTICE -- AND SERVICE TO AN ALLEGED PAROLE VIOLATOR -- WAIVER OF HEARING. (1) Within fifteen (15) calendar days following arrest and detention on a warrant issued by the ~~Idaho commission for pardons and parole~~, the alleged parole violator shall be personally served with a copy of the factual allegations of the violation of the conditions of parole by a state probation and parole officer, a law enforcement official or other as designated by the executive director. When accused of a violation of his parole, other than by absconding supervision or the commission of and conviction for a felony or misdemeanor, the alleged parole violator shall be advised of the right to an on-site parole revocation hearing and of procedural rights and privileges as provided by this act. The alleged parole violator, after service of the allegation of violations of the conditions of parole and the notification of rights, may waive the on-site parole revocation hearing as provided by section 20-2291008, Idaho Code. If the alleged parole violator waives the right to an on-site hearing, the commission, executive director or hearing officer shall designate the facility where the hearing will be conducted.

(2) Whenever a paroled prisoner is accused of a violation of his parole by absconding supervision or the commission of and conviction for a felony or misdemeanor under the laws of this state, or any other state, or any federal laws, and following arrest and detention on a warrant issued by the ~~Idaho commission for pardons and parole~~, the alleged parole violator shall be personally served with a copy of the factual allegations of the violation of the conditions of parole within a reasonable time. The alleged parole violator shall be advised of the right to a hearing and all other rights and privileges as provided by this act. The executive director or hearing officer shall designate the facility where the hearing will be conducted. A fair and impartial hearing of the charges will be conducted within a reasonable time.

(3) The alleged parole violator may waive the right to any hearing, and at that time may admit one (1) or more of the alleged violations of the conditions of parole. If the waiver is accepted by the commission or hearing officer: (i) the parolee may be reinstated under the same or modified conditions, or (ii) the parolee shall be subject to an expedited determination by the commission consistent with the provisions of section 20-229B1010, Idaho Code, without a hearing. If all waivers made by the parolee are rejected by the commission or designated hearing officer, a parole revocation hearing shall be held either on-site or at a penitentiary facility.

SECTION 12. That Section 20-229B, Idaho Code, be, and the same is hereby amended to read as follows:

20-229B1010. COMMISSION RULINGS AT A PAROLE REVOCATION HEARING. (1) After a factual parole revocation hearing has been concluded, the ~~member or members of the commission for pardons and parole~~ commissioner or commissioners or the designated hearing officer, having heard the matter, shall render a decision within twenty (20) days. If the alleged parole violator waives the parole hearing pursuant to the provisions of section 20-229A1009(3), Idaho Code, then a decision shall be entered upon acceptance of the waiver.

(2) If the ~~member or members~~ commissioner or commissioners or hearing officer, having heard the matter, should conclude that the allegations of violation of the conditions of parole have not been proven by a preponderance of the evidence, or those ~~which~~ that have been proven by a preponderance of the evidence are not sufficient cause for the revocation of parole, then the parolee shall be reinstated on parole on the same or modified conditions of parole.

(3) If the ~~member or members~~ commissioner or commissioners or hearing officer, having heard the matter, should conclude that the allegations of violation of the conditions of parole have been proven by a preponderance of the evidence and constitute sufficient cause for the revocation of parole, then a dispositional hearing shall be convened during a regular session of the commission to impose any sanctions up to and including executing an order of parole revocation and determine the period of time the parole violator shall be returned to state custody.

SECTION 13. That Section 20-231, Idaho Code, be, and the same is hereby amended to read as follows:

20-2311011. IMMUNITY FROM PAROLE OR RELEASE OF A PRISONER. Neither a public entity nor a public employee or servant shall be financially responsible or liable for any injury resulting from determining whether to parole or release a prisoner or from determining the terms or conditions of his parole or release or from determining whether to revoke his parole or release.

SECTION 14. That Section 20-233, Idaho Code, be, and the same is hereby amended to read as follows:

20-2331012. FINAL DISCHARGE OF PAROLEE -- MINIMUM TERM. (1) When any paroled prisoner has performed the obligations of his parole for such time as shall satisfy the commission that his final release is not incompatible with his welfare and that of society, the commission may make the final order of discharge and issue to the paroled prisoner a certificate of discharge; but no such order of discharge shall be made in any case within a period of less than one (1) year after the date of release on parole, except that when the period of the maximum sentence provided by law shall expire at an earlier date, then a final order of discharge must be made and a certificate of discharge issued to the paroled prisoner not later than the date of expiration of said maximum sentence.

(2) The board of ~~correction~~ may submit a request to the commission for an order of final discharge from the remaining period of parole for any parolee under the board's supervision at any time during the period of parole. A request for final discharge shall be supported by a statement attested to under oath or signed under penalty of perjury pursuant to section 9-1406, Idaho Code, setting forth the facts upon which the request is based. The commission shall notify the victim of a request for final discharge from parole. Any response to a request for final discharge shall be filed within thirty (30) days of the date of submittal of the request. The commission may, without a hearing, rule upon a request for final discharge based on a review of the case, the request, the statement and any responses to the request, or may schedule a hearing on the request. The commission shall rule on the request for final discharge within ninety (90) days of the date of submittal of the request.

SECTION 15. That Section 20-234, Idaho Code, be, and the same is hereby amended to read as follows:

20-2341013. PAROLE INFORMATION TO BE TRANSMITTED TO THE SHERIFF AND COUNTY PROSECUTOR. Whenever any person committed to the custody of the state board of ~~correction~~ shall have been granted a parole by the commission, it shall be the duty of the commission to transmit to the sheriff and the prosecuting attorney of the county within which said prisoner shall be paroled, a copy of the parole agreement, and information as to the place of residence of said prisoner within said county, and the sheriff shall notify local law enforcement and other pertinent agencies.

SECTION 16. That Section 20-104, Idaho Code, be, and the same is hereby amended to read as follows:

20-1041014. TRANSFER OF CONVICTED FOREIGN CITIZENS OR NATIONALS UNDER TREATY. If a treaty in effect between the United States and a foreign country provides for the transfer or exchange of convicted offenders to the country of which they are citizens or nationals, the governor may, on behalf of the state and subject to the terms of the treaty, authorize the commission ~~of pardons and parole~~ to consent to the transfer or exchange of offenders and take any other action necessary to initiate the participation of this state in the treaty.

SECTION 17. That Section 20-240, Idaho Code, be, and the same is hereby amended to read as follows:

20-2401015. RESPITES AND REPRIEVES. (1) The governor shall have power to grant respites or reprieves in all cases of convictions for offenses against the state, except treason or imprisonment on impeachment, but such respites or reprieves shall not extend beyond the next session of the commission; and such commission shall at such session continue or determine such respite or reprieve, or may commute or pardon the offense as herein provided.

(2) In cases of conviction of treason, the governor shall have the power to suspend the execution of the sentence until the case shall be reported to the legislature at its next regular session, when the legislature shall either pardon or commute the sentence, direct its execution or grant a further reprieve.

SECTION 18. That Section 20-240A, Idaho Code, be, and the same is hereby amended to read as follows:

20-240A1016. COMMUTATIONS AND PARDONS. (1) The commission shall have full and final authority to grant commutations and pardons after conviction and judgment in all cases of offenses against the state except treason or impeachment and as otherwise provided in this section.

(2) With respect to commutations and pardons for offenses, or conspiracies to commit any offense, for which the maximum punishment allowed by law at the time of sentencing is death or life imprisonment, the commission's determination shall only constitute a recommendation subject to approval or disapproval by the governor. No commutation or pardon for such offenses shall be effective until presented to and approved by the governor. Any commutation or pardon recommendation not so approved within thirty (30) days of the commission's recommendation shall be deemed denied.

(3) Notwithstanding subsection (2) of this section, the commission shall have full and final authority to grant pardons and commutations for:

(a) Any offense in violation of chapter 27, title 37, Idaho Code, for which the maximum punishment allowed by law at the time of sentencing is life imprisonment; and

(b) Any offense for which the maximum punishment allowed by law at the time of sentencing is enhanced by chapter 25, title 19, Idaho Code, to life imprisonment.

(4) The commission shall conduct commutation and pardon proceedings pursuant to rules and regulations adopted in accordance with law and may attach such conditions as it deems appropriate in granting pardons or commutations.

SECTION 19. That Section 20-213, Idaho Code, be, and the same is hereby amended to read as follows:

~~20-2131017. MEETINGS AS STATE COMMISSION OF PARDONS AND PAROLES -- NOTICE, PUBLICATION, CONTENTS REQUIRED PUBLICATIONS AND LIMITATION ON APPLICATIONS FOR COMMUTATIONS AND PARDONS. (1) The commission shall meet at such times and places as it may prescribe, but not less than quarterly. If When applications for pardon or commutation are scheduled to be considered at such a meeting of the commission, notice the executive director shall cause to be published in some newspaper of general circulation at Boise, Idaho, at least once a week for four (4) consecutive weeks, all notice required by the constitution of the state of Idaho immediately prior thereto to the hearing. Such notices shall list the names of all persons making application for pardon or commutation, and a copy of such notice shall immediately, upon the first publication thereof, be mailed provided to each prosecuting attorney of any county from which any such person was committed to the penitentiary, and provided further that custody of the board.~~

~~(2) Tthe commission may in its discretion consider but one (1) application for pardon or commutation from any one (1) person in any twelve (12) month period.~~

SECTION 20. That Section 20-240B, Idaho Code, be, and the same is hereby amended to read as follows:

~~20-240B1018. NOTICE OF GRANTED PARDON, COMMUTATION, OR REMISSION OF FINES AND FORFEITURES. When, by action of the commission or the governor, a pardon, commutation, or remission of fines and forfeitures is granted as provided by law, the executive director shall:~~

~~(1) Retain an original pardon, commutation, or remission of fines and forfeitures document at the commission;~~

~~(2) File a copy of the original pardon, commutation, or remission of fines and forfeitures document in the office of the secretary of state;~~

~~(3) Provide an original pardon, commutation, or remission of fines and forfeitures document to the individual petitioner;~~

~~(4) File notice with the state courts, in a manner approved by the supreme court, that a pardon, commutation, or remission of fines and forfeitures has been granted in the case; and~~

~~(5) Provide such additional notice that a pardon, commutation, or remission of fines and forfeitures has been granted as the commission may adopt by rule.~~

SECTION 21. That Section 19-2513, Idaho Code, be, and the same is hereby amended to read as follows:

19-2513. UNIFIED SENTENCE. (1) Whenever any person is convicted of having committed a felony, the court shall, unless it shall commute the sentence, suspend or withhold judgment and sentence or grant probation, as provided in chapter 26, title 19, Idaho Code, or unless it shall impose the death sentence as provided by law, sentence such offender to the custody of the state board of correction. The court shall specify a minimum period of confinement and may specify a subsequent indeterminate period of custody. The court shall set forth in its judgment and sentence the minimum period of confinement and the subsequent indeterminate period, if any, provided, that the aggregate sentence shall not exceed the maximum provided by law. During a minimum term of confinement, the offender shall not be eligible for parole or discharge or credit or reduction of sentence for good conduct except for meritorious service except as provided in section 20-223(8)1006, Idaho Code. The offender may be considered for parole or discharge at any time

during the indeterminate period of the sentence and as provided in section 20-223(8)1006, Idaho Code.

(2) If the offense carries a mandatory minimum penalty as provided by statute, the court shall specify a minimum period of confinement consistent with such statute. If the offense is subject to an enhanced penalty as provided by statute, or if consecutive sentences are imposed for multiple offenses, the court shall, if required by statute, direct that the enhancement or each consecutive sentence contain a minimum period of confinement; in such event, all minimum terms of confinement shall be served before any indeterminate periods commence to run.

(3) Enactment of this amended section shall not affect the prosecution, adjudication or punishment of any felony committed before the effective date of enactment.

SECTION 22. That Section 19-2515, Idaho Code, be, and the same is hereby amended to read as follows:

19-2515. SENTENCE IN CAPITAL CASES -- SPECIAL SENTENCING PROCEEDING -- STATUTORY AGGRAVATING CIRCUMSTANCES -- SPECIAL VERDICT OR WRITTEN FINDINGS. (1) Except as provided in section 19-2515A, Idaho Code, a person convicted of murder in the first degree shall be liable for the imposition of the penalty of death if such person killed, intended a killing, or acted with reckless indifference to human life, irrespective of whether such person directly committed the acts that caused death.

(2) Where a person is sentenced to serve a term in the penitentiary, after conviction of a crime which falls within the provisions of section 20-2231005, Idaho Code, except in cases where the court retains jurisdiction, the comments and arguments of the counsel for the state and the defendant relative to the sentencing and the comments of the judge relative to the sentencing shall be recorded. If the comments are recorded electronically, they need not be transcribed. Otherwise, they shall be transcribed by the court reporter.

(3) Where a person is convicted of an offense which may be punishable by death, a sentence of death shall not be imposed unless:

(a) A notice of intent to seek the death penalty was filed and served as provided in section 18-4004A, Idaho Code; and

(b) The jury, or the court if a jury is waived, finds beyond a reasonable doubt at least one (1) statutory aggravating circumstance. Where a statutory aggravating circumstance is found, the defendant shall be sentenced to death unless mitigating circumstances which may be presented are found to be sufficiently compelling that the death penalty would be unjust. The jury shall not direct imposition of a sentence of death unless it unanimously finds at least one (1) statutory aggravating circumstance and unanimously determines that the penalty of death should be imposed.

(4) Notwithstanding any court rule to the contrary, when a defendant is adjudicated guilty of murder in the first degree, whether by acceptance of a plea of guilty, by verdict of a jury, or by decision of the trial court sitting without a jury, no presentence investigation shall be conducted; provided however, that if a special sentencing proceeding is not held or if a special sentencing proceeding is held but no statutory aggravating circumstance has been proven beyond a reasonable doubt, the court may order that a presentence investigation be conducted.

(5) (a) If a person is adjudicated guilty of murder in the first degree, whether by acceptance of a plea of guilty, by verdict of a jury, or by decision of the trial court sitting without a jury, and a notice of intent to seek the death penalty was filed and served as provided in section 18-4004A, Idaho Code, a special sentencing proceeding shall be held promptly for the purpose of hearing all relevant evidence and ar-

guments of counsel in aggravation and mitigation of the offense. Information concerning the victim and the impact that the death of the victim has had on the victim's family is relevant and admissible. Such information shall be designed to demonstrate the victim's uniqueness as an individual human being and the resultant loss to the community by the victim's death. Characterizations and opinions about the crime, the defendant and the appropriate sentence shall not be permitted as part of any victim impact information. The special sentencing proceeding shall be conducted before a jury unless a jury is waived by the defendant with the consent of the prosecuting attorney.

(b) If the defendant's guilt was determined by a jury verdict, the same jury shall hear the special sentencing proceeding; provided however, that if it is impracticable to reconvene the same jury to hear the special sentencing proceeding due to an insufficient number of jurors, the trial court may dismiss that jury and convene a new jury of twelve (12) persons, plus alternate jurors as the trial court deems necessary pursuant to section 19-1904, Idaho Code.

(c) If the defendant's guilt was determined by a plea of guilty or by a decision of the trial court sitting without a jury, or if a retrial of the special sentencing proceeding is necessary for any reason including, but not limited to, a mistrial in a previous special sentencing proceeding or as a consequence of a remand from an appellate court, the trial court shall impanel a jury of twelve (12) persons, plus alternate jurors as the trial court deems necessary pursuant to section 19-1904, Idaho Code, unless such jury is waived.

(d) If a special sentencing proceeding is conducted before a newly impaneled jury pursuant to the provisions of subsection (5)(b) or (5)(c) of this section, the state and the defense may present evidence to inform the jury of the nature and circumstances of the murder for which the defendant was convicted. The newly impaneled jury shall be instructed that the defendant has previously been found guilty of first-degree murder and that the jury's purpose is limited to making findings relevant for sentencing.

(6) At the special sentencing proceeding, the state and the defendant shall be entitled to present all relevant evidence in aggravation and mitigation. Disclosure of evidence to be relied on in the sentencing proceeding shall be made in accordance with Idaho criminal rule 16. Evidence admitted at trial shall be considered and need not be repeated at the sentencing hearing.

(7) The jury shall be informed as follows:

(a) If the jury finds that a statutory aggravating circumstance exists and no mitigating circumstances exist which would make the imposition of the death penalty unjust, the defendant will be sentenced to death by the court.

(b) If the jury finds the existence of a statutory aggravating circumstance but finds that the existence of mitigating circumstances makes the imposition of the death penalty unjust or the jury cannot unanimously agree on whether the existence of mitigating circumstances makes the imposition of the death penalty unjust, the defendant will be sentenced to a term of life imprisonment without the possibility of parole; and

(c) If the jury does not find the existence of a statutory aggravating circumstance or if the jury cannot unanimously agree on the existence of a statutory aggravating circumstance, the defendant will be sentenced by the court to a term of life imprisonment with a fixed term of not less than ten (10) years.

(8) Upon the conclusion of the evidence and arguments in mitigation and aggravation:

(a) With regard to each statutory aggravating circumstance alleged by the state, the jury shall return a special verdict stating:

(i) Whether the statutory aggravating circumstance has been proven beyond a reasonable doubt; and

(ii) If the statutory aggravating circumstance has been proven beyond a reasonable doubt, whether all mitigating circumstances, when weighed against the aggravating circumstance, are sufficiently compelling that the death penalty would be unjust.

(b) If a jury has been waived, the court shall:

(i) Make written findings setting forth any statutory aggravating circumstance found beyond a reasonable doubt;

(ii) Set forth in writing any mitigating circumstances considered; and

(iii) Upon weighing all mitigating circumstances against each statutory aggravating circumstance separately, determine whether mitigating circumstances are found to be sufficiently compelling that the death penalty would be unjust and detail in writing its reasons for so finding.

(9) The following are statutory aggravating circumstances, at least one (1) of which must be found to exist beyond a reasonable doubt before a sentence of death can be imposed:

(a) The defendant was previously convicted of another murder.

(b) At the time the murder was committed the defendant also committed another murder.

(c) The defendant knowingly created a great risk of death to many persons.

(d) The murder was committed for remuneration or the promise of remuneration or the defendant employed another to commit the murder for remuneration or the promise of remuneration.

(e) The murder was especially heinous, atrocious or cruel, manifesting exceptional depravity.

(f) By the murder, or circumstances surrounding its commission, the defendant exhibited utter disregard for human life.

(g) The murder was committed in the perpetration of, or attempt to perpetrate, arson, rape, robbery, burglary, kidnapping or mayhem and the defendant killed, intended a killing, or acted with reckless indifference to human life.

(h) The murder was committed in the perpetration of, or attempt to perpetrate, an infamous crime against nature, lewd and lascivious conduct with a minor, sexual abuse of a child under sixteen (16) years of age, ritualized abuse of a child, sexual exploitation of a child, sexual battery of a minor child sixteen (16) or seventeen (17) years of age, or forcible sexual penetration by use of a foreign object, and the defendant killed, intended a killing, or acted with reckless indifference to human life.

(i) The defendant, by his conduct, whether such conduct was before, during or after the commission of the murder at hand, has exhibited a propensity to commit murder which will probably constitute a continuing threat to society.

(j) The murder was committed against a former or present peace officer, executive officer, officer of the court, judicial officer or prosecuting attorney because of the exercise of official duty or because of the victim's former or present official status.

(k) The murder was committed against a witness or potential witness in a criminal or civil legal proceeding because of such proceeding.

SECTION 23. That Section 19-2715, Idaho Code, be, and the same is hereby amended to read as follows:

19-2715. MINISTERIAL ACTIONS RELATING TO STAYS OF EXECUTION, RESET-
TING EXECUTION DATES, AND ORDER FOR EXECUTION OF JUDGMENT OF DEATH. (1) Here-
after, no further stays of execution shall be granted to persons sentenced
to death except that a stay of execution shall be granted during an appeal
taken pursuant to section 19-2719, Idaho Code, during the automatic review
of judgments imposing the punishment of death provided by section 19-2827,
Idaho Code, by order of a federal court or as part of a commutation proceeding
pursuant to section 20-2401015, Idaho Code.

(2) Upon remittitur or mandate after a sentence of death has been af-
firmed, the state shall apply for a warrant from the district court in which
the conviction was had, authorizing execution of the judgment of death. Upon
such application, the district court shall set a new execution date not more
than thirty (30) days thereafter.

(3) If a stay of execution is granted pursuant to subsection (1) of this
section and as a result, no execution takes place on the date set by the dis-
trict court, upon termination of the stay, the state shall apply for another
warrant and upon such application, the district court shall set a new execu-
tion date not more than thirty (30) days thereafter.

(4) If for any reason, other than those set forth in subsection (1) of
this section, a judgment of death has not been executed, and it remains in
force, the state shall apply for another warrant. Upon such application,
the district court may inquire into the facts, and if no legal reason exists
against the execution of the judgment, must make an order that the warden ex-
ecute the judgment at a special specified time. The warden must execute the
judgment accordingly.

(5) Action of the district court under this section is ministerial
only. No hearing shall be required for setting a new execution date and the
court shall inquire only into the fact of an existing death sentence and the
absence of a valid stay of execution.

(6) For purposes of this section, the phrase "stay of execution" shall
refer to a temporary postponement of an execution as a result of a court or-
der or an order of the governor postponing the execution while a petition for
commutation is pending.

SECTION 24. That Section 19-4213, Idaho Code, be, and the same is hereby
amended to read as follows:

19-4213. RELIEF AVAILABLE FOR CONSTITUTIONAL VIOLATIONS DURING
THE COURSE OF REVOCATION OF PAROLE. (1) If a court finds that an in-state
prisoner's constitutional rights have been violated during the course of
revocation of his parole, the court may, upon specific findings of fact and
conclusions of law, enter an order directing that the parole revocation
proceedings be reconvened. The order shall identify the constitutional
violation which occurred and direct that the violation be cured.

(2) The Idaho commission ~~for~~ of pardons and parole has the exclusive
authority to order release of an in-state prisoner on parole pursuant to
~~sections 20-210 and 20-223~~ chapter 10, title 20, Idaho Code.

SECTION 25. That Section 20-209G, Idaho Code, be, and the same is hereby
amended to read as follows:

20-209G. AUTHORITY TO INVESTIGATE AND ISSUE SUBPOENAS. (1) For pur-
poses of this section, the following definitions shall apply:

(a) "Correctional facility" means any prison, correctional facility
or mental health facility operated by the department of correction and
any public or private correctional facility in which department of cor-

rection prisoners are housed pursuant to contract, including a county jail;

(b) "Department of correction prisoner" means any person housed in a correctional facility who has been committed to the custody of or who is under the supervision of the department of correction by way of a judgment of conviction or court order, including the following:

(i) Prisoners committed to the department to serve criminal sentences;

(ii) Persons committed in relation to their fitness to proceed at trial pursuant to section 18-212, Idaho Code;

(iii) Prisoners over whom a court has retained jurisdiction pursuant to section 19-2601 4., Idaho Code;

(iv) Prisoners serving discretionary jail time as probationers or parolees;

(v) Parolees arrested pursuant to sections 20-227 and 20-2281007, Idaho Code, and are awaiting a determination regarding violation or revocation of their parole;

(vi) Civil commitments pursuant to section 66-329, Idaho Code; and

(vii) Persons committed to the Idaho security medical program pursuant to section 66-1301, Idaho Code.

(c) "Documents" means any writings, charts, records, recordings, electronic records or data, photographs, tangible things, drawings or diagrams of any sort whatsoever.

(2) In furtherance of the duties set forth in this chapter and department of correction rules, the director of correction shall have the authority to:

(a) Investigate crimes, criminal enterprises or conspiracies, violations of state law or administrative regulations, disturbances, riots and the introduction of contraband into a correctional facility, where such activities involve department of correction prisoners;

(b) Investigate waste, mismanagement of state resources and violations of laws, regulations, policies, directives or procedures by employees of the department of correction; and

(c) Issue subpoenas for the production of documents which may be relevant to such investigations.

(3) If a custodian of documents refuses to produce any document required by a subpoena issued pursuant to subsection (2) of this section, the director of correction may petition the district court in the county in which the custodian resides or does business, setting forth by way of sworn affidavit the reasons supporting issuance of the subpoena and why the documents sought are necessary for the investigation, that due notice has been given of the time and place of production of said documents, that the custodian has been properly summoned and that the custodian has failed and refused to produce documents required by the subpoena and may request an order compelling the custodian to produce the documents.

(4) Upon the filing of such petition and affidavit, the court shall enter an order directing the custodian of documents to appear before the court at a time fixed by the court, but not more than ten (10) court days from the date of the order, and to show cause why the custodian has not produced the documents and why he should not be required to produce the documents. The court shall serve a copy of the order upon the custodian. If it appears to the court that the petition is adequately supported by affidavit, the subpoena was regularly issued by the director of correction and regularly served upon the custodian, and that there is not good cause for the custodian's failure to produce the documents, the court shall order the custodian to produce the required documents at a time and place fixed by the court. If the custodian fails to obey the court's order, he shall be dealt with for contempt of court.

(5) When documents are sought from a custodian who is not a resident of this state or who has his principal place of business in another state, the director of correction is authorized to obtain subpoenas issued by the clerk of the district court of Ada county. The clerk of the district court shall open a court file, provide a case number and issue the subpoena under the seal of the court. The subpoena shall specify those documents required to be produced.

(6) The department of correction shall cooperate with local law enforcement and other local, state or federal law enforcement agencies during the conduct of any investigation arising out of the powers and duties set forth in this section.

SECTION 26. 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 state 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, 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 is 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 paragraph, "system" includes electrical, computer and telecommunication systems, electric power (including production, generating, transportation, transmission and distribution), heating, ventilation, and air conditioning. 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 Idaho commission of pardons and parole shall be exempt from public disclosure pursuant to section 20-213A1003, Idaho Code, and section 20-2231005, 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 management 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 in 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.

(17) Records of any certification or notification required by federal law to be made in connection with the acquisition or transfer of a firearm, including a firearm as defined in 26 U.S.C. 5845(a).

(18) The following records of the state public defense commission:

- (a) Records containing information protected or exempted from disclosure under the rules adopted by the Idaho supreme court, attorney work product, attorney-client privileged communication, records containing confidential information from an individual about his criminal case or performance of his attorney, or confidential information about an inquiry into an attorney's fitness to represent indigent defendants.

(b) Records related to the administration of the extraordinary litigation fund by the state public defense commission, pursuant to section 19-850(2)(e), Idaho Code, to the extent that such records contain information protected or exempted from disclosure under rules adopted by the Idaho supreme court, attorney work product or attorney-client privileged communication. This exemption does not include the amount awarded based upon an application for extraordinary litigation funds.

(19) Records and information received by the office of the state controller from any local government, state agency and department, or volunteer nongovernmental entity for purposes of entry into the criminal justice integrated data system pursuant to section 19-4803, Idaho Code, and all records created by persons authorized to research and analyze information entered into the criminal justice integrated data system, regardless of whether such records were previously exempted from disclosure or redacted pursuant to state or federal law or court order. This exemption does not apply to projects, reports, and data analyses approved for release by the data oversight council and issued by persons authorized to conduct research and analysis as set forth in chapter 48, title 19, Idaho Code. Records and information relating to the management of the criminal justice integrated data system shall not be exempt from disclosure except as otherwise provided in law.

Approved April 13, 2021

CHAPTER 197
(H.B. No. 152)

AN ACT

RELATING TO SECURITY DEPOSITS; AMENDING SECTION 6-321, IDAHO CODE, TO PROVIDE THAT CERTAIN SECURITY DEPOSITS SHALL BE MAINTAINED IN A SEPARATE ACCOUNT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 6-321, Idaho Code, be, and the same is hereby amended to read as follows:

6-321. SECURITY DEPOSITS. (1) Amounts deposited by a tenant with a landlord for any purpose other than the payment of rent shall be deemed security deposits. Upon termination of a lease or rental agreement and surrender of the premises by the tenant all amounts held by the landlord as a security deposit shall be refunded to the tenant, except amounts necessary to cover the contingencies specified in the deposit arrangement. The landlord shall not retain any part of a security deposit to cover normal wear and tear. "Normal wear and tear" means that deterioration which occurs based upon the use for which the rental unit is intended and without negligence, carelessness, accident, or misuse or abuse of the premises or contents by the tenant or members of his household, or their invitees or guests.

(2) Refunds shall be made within twenty-one (21) days if no time is fixed by agreement, and, in any event, within thirty (30) days after surrender of the premises by the tenant. Any refunds in an amount less than the full amount deposited by the tenant shall be accompanied by a signed statement itemizing the amounts lawfully retained by the landlord, the purpose for the amounts retained, and a detailed list of expenditures made from the deposit.

(3) If security deposits have been made as to a particular rental or lease property, and the property changes ownership during a tenancy, the new owner shall be liable for refund of the deposits.

(4) A security deposit for a residential rental premises that is managed by a third-party manager of a landlord shall be maintained in a separate account at a federally insured financial institution. Such account shall be maintained separate from the third-party agent's operating account. The requirements of this subsection shall not apply to a property owner, managers who have common members or principals of the property owner entity, a real estate licensee, or a nonprofit business organization as established under chapter 30, title 30, Idaho Code.

Approved April 13, 2021

CHAPTER 198
(H.B. No. 155)

AN ACT

RELATING TO GOVERNMENT PROPERTY; AMENDING SECTION 67-2322, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE TRANSFER OF PROPERTY BETWEEN GOVERNMENT BODIES.

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

SECTION 1. That Section 67-2322, Idaho Code, be, and the same is hereby amended to read as follows:

67-2322. TRANSFER OF PROPERTY BY LOCAL UNIT OF GOVERNMENT TO OTHER GOVERNMENT BODY AUTHORIZED. In addition to any other general or special powers vested in counties, school districts, community college districts, highway districts, fire districts, irrigation districts, drainage districts, sewer districts, hospital districts, health districts, cemetery maintenance districts, recreation districts, and airports for the performance of their respective functions, powers or duties on an individual, cooperative, joint or contract basis, said units of the government or districts shall have the power to convey or transfer real or personal property to another such unit or to the United States, state of Idaho, any city or village with or without consideration. Such conveyance or transfer may be made without consideration or payment when it is in the best interest of the public in the judgment of the governing body of the granting unit.

Approved April 13, 2021

CHAPTER 199
(H.B. No. 156)

AN ACT

RELATING TO DEVELOPMENT IMPACT FEES; AMENDING SECTION 67-8203, 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 67-8203, Idaho Code, be, and the same is hereby amended to read as follows:

67-8203. DEFINITIONS. As used in this chapter:

(1) "Affordable housing" means housing affordable to families whose incomes do not exceed eighty percent (80%) of the median income for the service area or areas within the jurisdiction of the governmental entity.

(2) "Appropriate" means to legally obligate by contract or otherwise commit to use by appropriation or other official act of a governmental entity.

(3) "Capital improvements" means improvements with a useful life of ten (10) years or more, by new construction or other action, which increase the service capacity of a public facility.

(4) "Capital improvement element" means a component of a comprehensive plan adopted pursuant to chapter 65, title 67, Idaho Code, which component meets the requirements of a capital improvements plan pursuant to this chapter.

(5) "Capital improvements plan" means a plan adopted pursuant to this chapter that identifies capital improvements for which development impact fees may be used as a funding source.

(6) "Developer" means any person or legal entity undertaking development, including a party that undertakes the subdivision of property pursuant to sections 50-1301 through 50-1334, Idaho Code.

(7) "Development" means any construction or installation of a building or structure, or any change in use of a building or structure, or any change in the use, character or appearance of land, which creates additional demand and need for public facilities or the subdivision of property that would permit any change in the use, character or appearance of land. As used in this chapter, "development" shall not include activities that would otherwise be subject to payment of the development impact fee if such activities are undertaken by a taxing district, as defined in section 63-201, Idaho Code, or by an authorized public charter school, as defined in section 33-5202A, Idaho Code, in the course of carrying out its statutory responsibilities, unless the adopted impact fee ordinance expressly includes taxing districts or public charter schools as being subject to development impact fees.

(8) "Development approval" means any written authorization from a governmental entity that authorizes the commencement of a development.

(9) "Development impact fee" means a payment of money imposed as a condition of development approval to pay for a proportionate share of the cost of system improvements needed to serve development. This term is also referred to as an impact fee in this chapter. The term does not include the following:

(a) A charge or fee to pay the administrative, plan review, or inspection costs associated with permits required for development;

(b) Connection or hookup charges;

(c) Availability charges for drainage, sewer, water, or transportation charges for services provided directly to the development; or

(d) Amounts collected from a developer in a transaction in which the governmental entity has incurred expenses in constructing capital improvements for the development if the owner or developer has agreed to be financially responsible for the construction or installation of the capital improvements, unless a written agreement is made pursuant to section 67-8209(3), Idaho Code, for credit or reimbursement.

(10) "Development requirement" means a requirement attached to a developmental approval or other governmental action approving or authorizing a particular development project including, but not limited to, a rezoning, which requirement compels the payment, dedication or contribution of goods, services, land, or money as a condition of approval.

(11) "Extraordinary costs" means those costs incurred as a result of an extraordinary impact.

(12) "Extraordinary impact" means an impact that is reasonably determined by the governmental entity to:

(a) Result in the need for system improvements, the cost of which will significantly exceed the sum of the development impact fees to be generated from the project or the sum agreed to be paid pursuant to a development agreement as allowed by section 67-8214(2), Idaho Code; or

(b) Result in the need for system improvements that are not identified in the capital improvements plan.

(13) "Fee payer" means that person who pays or is required to pay a development impact fee.

(14) "Governmental entity" means any unit of local government that is empowered in this enabling legislation to adopt a development impact fee ordinance.

(15) "Impact fee." See development impact fee.

(16) "Land use assumptions" means a description of the service area and projections of land uses, densities, intensities, and population in the service area over at least a twenty (20) year period.

(17) "Level of service" means a measure of the relationship between service capacity and service demand for public facilities.

(18) "Manufactured home" means a structure, constructed according to HUD/FHA mobile home construction and safety standards, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include any structure that meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 U.S.C. 5401⁷ et seq.

(19) "Modular building" is as defined in section 39-4301, Idaho Code.

(20) "Present value" means the total current monetary value of past, present, or future payments, contributions or dedications of goods, services, materials, construction or money.

(21) "Project" means a particular development on an identified parcel of land.

(22) "Project improvements" means site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project.

(23) "Proportionate share" means that portion of the cost of system improvements determined pursuant to section 67-8207, Idaho Code, which reasonably relates to the service demands and needs of the project.

(24) "Public facilities" means:

(a) Water supply production, treatment, storage and distribution facilities;

(b) Wastewater collection, treatment and disposal facilities;

(c) Roads, streets and bridges, including rights-of-way, traffic signals, landscaping and any local components of state or federal highways;

(d) ~~Storm water~~ Stormwater collection, retention, detention, treatment and disposal facilities, flood control facilities, and bank and shore protection and enhancement improvements;

(e) Parks, open space and recreation areas, and related capital improvements; and

(f) Public safety facilities, including law enforcement, fire stations and apparatus, emergency medical and rescue, and street lighting facilities.

(25) "Recreational vehicle" means a vehicular type unit primarily designed as temporary quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.

(26) "Service area" means any defined geographic area identified by a governmental entity or by intergovernmental agreement in which specific

public facilities provide service to development within the area defined, on the basis of sound planning or engineering principles or both.

(27) "Service unit" means a standardized measure of consumption, use, generation or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a particular category of capital improvements.

(28) "System improvements," in contrast to project improvements, means capital improvements to public facilities designed to provide service to a service area including, without limitation, the type of improvements described in section 50-1703, Idaho Code.

(29) "System improvement costs" means costs incurred for construction or reconstruction of system improvements, including design, acquisition, engineering and other costs attributable thereto, and also including, without limitation, the type of costs described in section 50-1702(h), Idaho Code, to provide additional public facilities needed to serve new growth and development. For clarification, system improvement costs do not include:

- (a) Construction, acquisition or expansion of public facilities other than capital improvements identified in the capital improvements plan;
- (b) Repair, operation or maintenance of existing or new capital improvements;
- (c) Upgrading, updating, expanding or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;
- (d) Upgrading, updating, expanding or replacing existing capital improvements to provide better service to existing development;
- (e) Administrative and operating costs of the governmental entity unless such costs are attributable to development of the capital improvements plan, as provided in section 67-8208, Idaho Code; or
- (f) Principal payments and interest or other finance charges on bonds or other indebtedness except financial obligations issued by or on behalf of the governmental entity to finance capital improvements identified in the capital improvements plan.

Approved April 13, 2021

CHAPTER 200
(H.B. No. 165)

AN ACT

RELATING TO CUSTOM VEHICLE LICENSE PLATES; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-408A, IDAHO CODE, TO PROVIDE FOR CUSTOM VEHICLE LICENSE PLATES; AND AMENDING SECTION 49-428, IDAHO CODE, TO PROVIDE A CERTAIN EXEMPTION FOR THE DISPLAY OF CUSTOM VEHICLE LICENSE PLATES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-408A, Idaho Code, and to read as follows:

49-408A. CUSTOM VEHICLE LICENSE PLATES. (1) Any motor vehicle that is a replica vehicle pursuant to section 49-123(2)(n), Idaho Code, and is designed and manufactured to resemble a vehicle or motorcycle that would qualify for Idaho classic license plates pursuant to section 49-406A, Idaho Code, may be registered as a custom vehicle under the provisions of this section. The provisions of this section do not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds.

(2) A vehicle must be in compliance with Idaho law with respect to its equipment and operating condition to qualify for a custom vehicle license plate under this section.

(3) Upon receipt of an application on a form prescribed by the department for a custom vehicle license plate, accompanied by other documentation that may be required to verify that a vehicle qualifies under this section, the department shall issue to the applicant a custom vehicle license plate that shall be displayed on the rear of the vehicle. The registration certificate need not specify the weight of the custom vehicle. The license plate issued shall bear no date but shall bear the inscription "Custom Vehicle," "Idaho," and the registration number issued for the custom vehicle, and the license plate shall be valid upon annual renewal under section 49-402 or 49-434(1), Idaho Code, as long as the vehicle is in existence. The license plate will be issued for the applicant's use only for the particular vehicle, and, in the event of a transfer of title, the transferor may hold the license plate and transfer it to another qualifying custom vehicle.

(4) 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 and the annual program fee specified in section 49-402, Idaho Code. All revenues from the initial program fee and the annual program fee shall be deposited in the state highway account.

(5) The department has the power to revoke any registration issued under this section for cause shown for failure of the applicant to comply with the provisions of this section.

SECTION 2. That Section 49-428, Idaho Code, be, and the same is hereby amended to read as follows:

49-428. DISPLAY OF PLATE AND STICKERS. (1) License plates assigned to a motor vehicle shall be attached, one (1) in the front and the other in the rear, with the exception of the following:

(a) The license plate assigned to a motorcycle, all-terrain vehicle, utility type vehicle, motorbike or semitrailer and the license plate assigned to a motor vehicle operated by a manufacturer, repossession agent or dealer shall be attached to the rear.

(b) Vehicles displaying year of manufacture, old timer, classic car, ~~or~~ street rod, or custom vehicle license plates shall be allowed to display one (1) plate attached to the rear of the vehicle.

(c) The license plate attached to a tractor shall be attached to the front.

(d) The wrecker plate shall be displayed on the vehicle being towed in such a manner as to be visible when the vehicle being towed is approached from the rear.

License plates shall be displayed during the current registration year. The annual registration sticker for the current registration year shall be displayed on each license plate, except for trailers, semitrailers, and commercial vehicles over twenty-six thousand (26,000) pounds under the provisions of sections 49-434 and 49-435, Idaho Code. For the purposes of this title, the license plates together with the registration stickers shall be considered as license plates for the year designated on the registration sticker.

(2) Every license plate shall at all times be securely fastened to the vehicle to which it is assigned to prevent the plate from swinging, be at a height not less than twelve (12) inches from the ground, measuring from the bottom of the plate, be in a place and position to be clearly visible, and shall be maintained free from foreign materials and in a condition to be clearly legible, and all registration stickers shall be securely attached to the license plates and shall be displayed as provided in section 49-443(4), Idaho Code.

Approved April 13, 2021

CHAPTER 201
(H.B. No. 175)

AN ACT

RELATING TO EDUCATION; PROVIDING LEGISLATIVE INTENT; AND AMENDING SECTION 33-1612, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE THAT A THOROUGH EDUCATION INCLUDES THE ACQUISITION OF CERTAIN KNOWLEDGE AND SKILLS, TO PROVIDE THAT STUDENTS HAVE THE RIGHT TO AN UNINTERRUPTED EDUCATION, TO PROVIDE FOR IN-PERSON INSTRUCTION WHEN POSSIBLE DURING AN EMERGENCY, TO PROVIDE FOR MONITORING AND MEASURING OF STUDENT PROGRESS, AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. LEGISLATIVE INTENT. Section 1, Article IX, of the Idaho Constitution states that the stability of a republican form of government depends mainly upon the intelligence of the people. To this end, it is the duty of the legislature to establish and maintain a general, uniform, and thorough system of public, free common schools for all Idaho elementary and secondary students. To ensure that Idaho's constitutional mandate is met, students must have access to in-person instruction and to the educational opportunities and programs that will help them succeed in life after school. The Legislature recognizes that most students, particularly those with special needs and elementary students, learn best when in person in a structured setting. School districts should attempt, to the greatest extent practical, to provide in-person instruction to any student whose needs would best be met in that manner.

SECTION 2. That Section 33-1612, Idaho Code, be, and the same is hereby amended to read as follows:

33-1612. THOROUGH SYSTEM OF PUBLIC SCHOOLS. (1) As used in this section:

- (a) "Blended or hybrid instruction" means instruction through both in-person and virtual instruction.
- (b) "In-person instruction" means instruction in the physical presence of an individual employed by an Idaho local education agency.
- (c) "Virtual instruction" means synchronous or asynchronous instruction primarily through the use of technology pursuant to section 33-5202A(11), Idaho Code.

(2) The constitution of the state of Idaho, section 1, article IX, charges the legislature with the duty to establish and maintain a general, uniform, and thorough system of public, free common schools. In fulfillment of this duty, the people of the state of Idaho have long enjoyed the benefits of a public school system, supported by the legislature, which has recognized the value of education to the children of this state. In continuing recognition of the fundamental duty established by the constitution, the legislature finds it in the public interest to define thoroughness and thereby establish the basic assumptions which that govern provision of a thorough system of public schools. A thorough system of public schools in Idaho is one in which:

- 1-(a) A safe environment conducive to learning is provided;
- 2-(b) Educators are empowered to maintain classroom discipline;
- 3-(c) The basic values of honesty, self-discipline, unselfishness, respect for authority, and the central importance of work are emphasized;
- 4-(d) The skills necessary to communicate effectively are taught;
- 5-(e) A basic curriculum necessary to enable students to enter academic or professional-technical career technical postsecondary educational programs is provided;
- 6-(f) The Students acquire the knowledge and skills necessary for students to enter the work force are taught meeting challenging academic achievement standards and succeeding in the workforce and in life;
- 7-(g) The students are introduced to current technology; and
- 8-(h) The importance of students acquiring the skills to enable them to be responsible citizens of their homes, schools, and communities is emphasized;
- (i) Students have the right to an uninterrupted education that covers all disciplines, including music, the arts, and physical education if such courses are offered by the local education agency;
- (j) During a period of state or local emergency, if a school district or public charter school has to change from in-person instruction at a school facility to virtual instruction or blended or hybrid instruction, then, to the greatest extent possible and where safety requirements can be developed by the school district or public charter school, an in-person instruction option will be made available to students; and
- (k) Student progress is monitored and measured in all required courses of instruction.

(3) The state board shall adopt rules, pursuant to the provisions of chapter 52, title 67, Idaho Code, and section 33-105(3), Idaho Code, to establish a thorough system of public schools with uniformity as required by the constitution, but shall not otherwise impinge upon the authority of the board of trustees of the school districts. Authority to govern the school district, vested in the board of trustees of the school district, not delegated to the state board, is reserved to the board of trustees. Fulfillment of the expectations of a thorough system of public schools will continue to depend upon the vigilance of district patrons, the dedication of school trustees and educators, the responsiveness of state rules, and meaningful oversight by the legislature.

Approved April 13, 2021

CHAPTER 202
(H.B. No. 178)

AN ACT

RELATING TO APPRENTICESHIP PROGRAMS; AMENDING CHAPTER 94, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-9412, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING THE TREATMENT OF APPRENTICESHIP PROGRAMS FOR LICENSING PURPOSES.

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

SECTION 1. That Chapter 94, 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 67-9412, Idaho Code, and to read as follows:

67-9412. TREATMENT OF APPRENTICESHIP PROGRAMS FOR LICENSING PURPOSES. (1) For purposes of this section, "applicable apprenticeship program" means a paid on-the-job learning program that has been adopted by an Idaho licensing authority or the United States department of labor or a standards recognition entity recognized by the United States department of labor.

(2) A licensing authority shall grant a license to any applicant who has:

- (a) Completed an applicable apprenticeship program;
- (b) Passed an applicable examination, if required by a licensing authority;
- (c) Paid any applicable fees; and
- (d) Met any other criteria unrelated to training and education ordinarily required by a licensing authority.

(3) If a licensing authority denies licensure to an applicant on the basis that the applicant's apprenticeship is not an applicable apprenticeship program, such licensing authority shall issue such denial in writing and explain why the applicant's apprenticeship program has been deemed inapplicable by the licensing authority. Such decision shall be a final administrative action and shall be subject to judicial review.

(4) If a licensing authority requires an examination, it shall require the same passing score for applicants under this section as for non-apprentice applicants. If a relevant licensing authority does not require an examination, no examination shall be required for applicants seeking to obtain licensure through an applicable apprenticeship program.

(5) A licensing authority shall use the same licensing fee for applicants under this section as for applicants under the standard licensing process. If a licensing authority does not require a fee, no fee shall be required for applicants who obtain licensure through an applicable apprenticeship program.

(6) A licensing authority shall not establish increased education or training requirements, including increased hour requirements, for applicants who have completed an applicable apprenticeship program under this section.

(7) Licensing authorities may work with the relevant agencies, such as the state department of education, the workforce development council, and the division of career technical education to ensure that applicable apprenticeship programs are available and known to secondary and postsecondary students.

(8) Licensing authorities without applicable apprenticeship programs may consider apprenticeship programs as a path to licensure if, in the discretion of a licensing authority, apprenticeship is appropriate.

Approved April 13, 2021

CHAPTER 203
(H.B. No. 198)

AN ACT

RELATING TO PRECINCT COMMITTEEMEN; AMENDING SECTION 34-624, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE QUALIFICATIONS OF A PRECINCT COMMITTEEMAN.

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

SECTION 1. That Section 34-624, Idaho Code, be, and the same is hereby amended to read as follows:

34-624. ELECTION OF PRECINCT COMMITTEEMEN -- QUALIFICATIONS. (1) At the primary election, 1980, and every two (2) years thereafter, a precinct committeeman for each political party shall be elected in every voting precinct within each county. The term of office of a precinct committeeman shall be from the eighth day following the primary election until the eighth day following the next succeeding primary election.

(2) No person shall be elected to the office of precinct committeeman unless he has attained the age of eighteen (18) years at the time of his election, is a citizen of the United States, and is a registered elector of and shall have resided within the voting precinct for a period of six (6) months next preceding his election.

(3) Each candidate shall file a declaration of candidacy with the county clerk.

(4) No filing fee shall be charged any candidate at the time of his filing his declaration of candidacy.

Approved April 13, 2021

CHAPTER 204
(H.B. No. 203)

AN ACT

RELATING TO PUBLIC SCHOOLS; AMENDING SECTION 33-1004H, IDAHO CODE, TO PROVIDE FOR REEMPLOYMENT OF CERTAIN RETIRED EMPLOYEES; AMENDING SECTION 59-1356, IDAHO CODE, TO PROVIDE THAT CERTAIN REEMPLOYED RETIREES MAY CONTINUE RECEIVING PERSI BENEFITS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-1004H, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004H. EMPLOYING RETIRED TEACHERS AND ADMINISTRATORS. (1) Notwithstanding the provisions of section 33-514, 33-1271 or 33-1273, Idaho Code, school districts may employ school resource officers, certificated schoolteachers, persons qualified to drive school buses, and administrators who are receiving retirement benefits from the public employee retirement system of Idaho, except those who received benefits under the early re-

tirement program previously provided by the state in positions requiring such certification, as at-will employees. Any employment contract between the retiree and the school district shall be separate and apart from the collective bargaining agreement of the school district.

(2) Retirees employed under this section shall accrue one (1) day per month of sick leave, with no annual sick leave accumulation unless additional sick leave is negotiated between the candidate and the school district at the time of employment. No sick leave accrued under this section qualifies for unused sick leave benefits under section 33-1228, Idaho Code.

(3) School districts are not required to provide health insurance or life insurance benefits to persons employed under this section. Post-termination benefits may be negotiated between the school district and the certificated employee at the time of rehiring but in no event can the parties affect or attempt to affect the provisions governing the public employee retirement system.

SECTION 2. That Section 59-1356, Idaho Code, be, and the same is hereby amended to read as follows:

59-1356. REEMPLOYMENT OF RETIRED MEMBERS. (1) If an early retired member is reemployed with the same employer within ninety (90) days from retiring, or the early retired member is guaranteed reemployment with the same employer, the member shall be considered to have continued in the status of an employee and not to have separated from service. Any retirement allowance payments received by the retired member shall be repaid to the system and the retirement shall be negated. The month of last contribution prior to the negated retirement and the month of initial contribution upon return to reemployment shall be considered consecutive months of contributions in the determination of an appropriate salary base period upon subsequent retirement. A retired member is not considered to have separated from service if he continues performing services for the same employer in any capacity including, but not limited to, independent contractor, leased employee, or temporary services.

(2) Except as provided in subsection (3) of this section, when a retired member meets the definition of an employee as defined in section 59-1302(14) (A) (a), Idaho Code, any benefit payable on behalf of such member shall be suspended and any contributions payable by such member under sections 59-1331 through 59-1334, Idaho Code, shall again commence. The suspended benefit, as adjusted pursuant to section 59-1355, Idaho Code, shall resume upon subsequent retirement, along with a separate allowance computed with respect to only that salary and service credited during the period of reemployment. Any death benefit that becomes payable under the suspended benefit shall be payable under section 59-1361(2), Idaho Code. Any death benefit that becomes payable with respect to salary and service accrued during the period of reemployment shall be payable under section 59-1361(3), Idaho Code, if the member dies during the period of reemployment.

(3) If a retired member who is receiving a benefit that is not reduced under section 59-1346, Idaho Code, and who has been retired for more than six (6) months, again becomes employed as defined in this section and section 59-1302(14) (A) (b), Idaho Code, as a result of being elected to a public office other than an office held prior to retirement, the retired member may elect to continue receiving benefits and not accrue additional service, in which event no contributions shall be made by the member or employer during such reemployment and any benefit payable on behalf of such member shall continue.

(4) If a retired schoolteacher, person qualified to drive school buses, or administrator who retired on or after age sixty (60) years, or a public safety officer who retired, and is receiving a benefit that is not reduced

under section 59-1346, Idaho Code, again becomes an employee as defined in this section and section 59-1302(14), Idaho Code, as a result of returning to employment with a school district as provided in section 33-1004H, Idaho Code, the retired member may elect to continue receiving benefits and not accrue additional service, in which event no contributions shall be made by the member during such reemployment and any benefit payable on behalf of such member shall continue. However, the school district shall pay the required employer contribution for that employee to the public employee retirement system.

(5) It is the responsibility of each employer to immediately report to the retirement board the employment of any retired member so that benefit payments can be suspended as provided in this section. If an employer fails to properly report the employment of a retired member and it results in the retirement board making benefit payments that should have been suspended, the employer shall, in addition to paying delinquent employee and employer contributions from the date of eligibility, also be responsible for repaying to the retirement board the benefit payments made to the retired member that should have been suspended, plus interest. The employer may then recoup such payments from the retired member.

(6) For purposes of this section, "same employer" means the employer for which the retired member last worked prior to retirement.

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

Approved April 13, 2021

CHAPTER 205
(H.B. No. 210)

AN ACT

RELATING TO SALES AND USE TAX; AMENDING SECTION 63-3621, IDAHO CODE, TO REVISE PROVISIONS REGARDING REQUIREMENTS FOR A USE TAX EXEMPTION FOR NONRESIDENTS PURCHASING VEHICLES IN IDAHO AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 63-3622R, IDAHO CODE, TO REVISE PROVISIONS REGARDING REQUIREMENTS FOR A SALES AND USE TAX EXEMPTION FOR CERTAIN NONRESIDENT BUSINESS ENTITIES PURCHASING VEHICLES IN IDAHO AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 63-3621, Idaho Code, be, and the same is hereby amended to read as follows:

63-3621. IMPOSITION AND RATE OF THE USE TAX -- EXEMPTIONS. (1) An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property acquired on or after October 1, 2006, for storage, use, or other consumption in this state at the rate of six percent (6%) of the value of the property, and a recent sales price shall be presumptive evidence of the value of the property unless the property is wireless telecommunications equipment, in which case a recent sales price shall be conclusive evidence of the value of the property.

(a2) Every person storing, using, or otherwise consuming, in this state, tangible personal property is liable for the tax. His liability is not extinguished until the tax has been paid to this state except that a receipt from a retailer maintaining a place of business in this state or

engaged in business in this state given to the purchaser is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers. A retailer shall not be considered to have stored, used, or consumed wireless telecommunications equipment by virtue of giving, selling, or otherwise transferring such equipment at a discount as an inducement to a consumer to commence or continue a contract for telecommunications service.

(b3) Every retailer engaged in business in this state, and making sales of tangible personal property for the storage, use, or other consumption in this state, not exempted under section 63-3622, Idaho Code, shall, at the time of making the sales or, if storage, use, or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use, or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the state tax commission.

(e4) The provisions of this section shall not apply when the retailer pays sales tax on the transaction and collects reimbursement for such sales tax from the customer.

(d5) Every retailer engaged in business in this state or maintaining a place of business in this state shall register with the state tax commission and give the name and address of all agents operating in this state the location of all distributions or sales houses or offices or other places of business in this state and such other information as the state tax commission may require.

(e6) For the purpose of the proper administration of this act and to prevent evasion of the use tax and the duty to collect the use tax, it shall be presumed that tangible personal property sold by any person for delivery in this state is sold for storage, use, or other consumption in this state. The burden of proving the sale is tax-exempt is upon the person who makes the sale unless he obtains from the purchaser a resale certificate to the effect that the property is purchased for resale or rental. It shall be presumed that sales made to a person who has completed a resale certificate for the seller's records are not taxable and the seller need not collect sales or use taxes unless the tangible personal property purchased is taxable to the purchaser as a matter of law in the particular instance claimed on the resale certificate.

(a) A seller may accept a resale certificate from a purchaser prior to the time of sale, at the time of sale, or at any reasonable time after the sale when necessary to establish the privilege of the exemption. The resale certificate relieves the person selling the property from the burden of proof only if taken from a person who is engaged in the business of selling or renting tangible personal property and who holds the permit provided for by section 63-3620, Idaho Code, or who is a retailer not engaged in business in this state, and who, at the time of purchasing the tangible personal property, intends to sell or rent it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose. Other than as provided elsewhere in this section, when a resale certificate, properly executed, is presented to the seller, the seller has no duty or obligation to collect sales or use taxes in regard to any sales transaction so documented, regardless of whether the purchaser properly or improperly claimed an exemption. A seller so relieved of the obligation to collect tax is also relieved of any liability to the purchaser for failure to collect tax or for making any report or disclosure of information required or permitted under this chapter.

(b) The resale certificate shall bear the name and address of the purchaser, shall be signed by the purchaser or his agent, shall indicate the number of the permit issued to the purchaser, or that the purchaser is an out-of-state retailer, and shall indicate the general character

of the tangible personal property sold by the purchaser in the regular course of business. The certificate shall be substantially in such form as the state tax commission may prescribe.

(f~~c~~) If a purchaser who gives a resale certificate makes any storage or use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business, the storage or use is taxable as of the time the property is first so stored or used.

(g~~7~~) Any person violating any provision of this section is guilty of a misdemeanor and punishable by a fine not in excess of one hundred dollars (\$100), and each violation shall constitute a separate offense.

(h~~8~~) It shall be presumed that tangible personal property shipped or brought to this state by the purchaser was purchased from a retailer, for storage, use, or other consumption in this state.

(i~~9~~) It shall be presumed that tangible personal property delivered outside this state to a purchaser known by the retailer to be a resident of this state was purchased from a retailer for storage, use, or other consumption in this state. This presumption may be controverted by evidence satisfactory to the state tax commission that the property was not purchased for storage, use, or other consumption in this state.

(j~~10~~) When the tangible personal property subject to use tax has been subjected to a general retail sales or use tax by another state of the United States in an amount equal to or greater than the amount of the Idaho tax, and evidence can be given of such payment, the property will not be subject to Idaho use tax. If the amount paid the other state was less, the property will be subject to use tax to the extent that the Idaho tax exceeds the tax paid to the other state. For the purposes of this subsection, a registration certificate or title issued by another state or subdivision thereof for a vehicle or trailer or a vessel as defined in section 67-7003, Idaho Code, shall be sufficient evidence of payment of a general retail sales or use tax.

(k~~11~~) The use tax herein imposed by this section shall not apply to the use by a nonresident of this state of a motor vehicle which is registered or licensed under the laws of the state of his residence and is not used in this state more than a cumulative period of time totaling ninety (90) days in any consecutive twelve (12) months and which is not required to be registered or licensed under the laws of this state if none of the buyers listed on the purchase, registration, or title documents are Idaho residents. A nonresident business entity will be held to the same requirements as a nonresident individual to qualify for the exemption provided in this subsection, except that the nonresident business entity also must not be formed under the laws of the state of Idaho. The use tax herein shall also not apply to any use of a motor vehicle which is registered or licensed under the laws of the state of residence of a nonresident student while such nonresident student is enrolled as a full-time student in an institution of postsecondary education that is both physically located in Idaho and recognized as accredited by the state board of education.

(l~~12~~) The use tax herein imposed by this section shall not apply to the use of household goods, personal effects and personally owned vehicles or personally owned aircraft by a resident of this state if such articles were acquired by such person in another state while a resident of that state and primarily for use outside this state and if such use was actual and substantial, but if an article was acquired less than three (3) months prior to the time he entered this state, it will be presumed that the article was acquired for use in this state and that its use outside this state was not actual and substantial. The use tax herein imposed by this section shall not apply to the use of household goods, personal effects, and personally owned vehicles or personally owned aircraft by active duty military personnel temporarily assigned in this state and spouses who accompany them if such articles were acquired prior to receipt of orders to transfer to Idaho or three (3) months prior to moving to Idaho, whichever time period is shorter.

For purposes of this subsection, "resident" shall be as defined in section 63-3013 or 63-3013A, Idaho Code.

(m13) (a) The use tax herein imposed by this section shall not apply to the storage, use, or other consumption of tangible personal property which that is or will be incorporated into real property and which has been donated to and has become the property of:

(1i) A nonprofit organization as defined in section 63-36220, Idaho Code; or

(2ii) The state of Idaho; or

(3iii) Any political subdivision of the state.

(b) This exemption applies whether the tangible personal property is incorporated in real property by the donee, a contractor, or subcontractor of the donee, or any other person.

(n14) The use tax herein imposed by this section shall not apply to tastings of food and beverages, including but not limited to wine and beer. For the purposes of this subsection, a tasting of wine and beer shall be defined as the maximum serving allowed by state or federal laws for such occasions provided to a potential customer, at no charge, at a location where like or similar beverages are sold. For nonalcoholic beverages and food, a tasting shall be defined as a sample from a unit available for sale at the tasting location.

(e15) The use tax herein imposed by this section shall not apply to donations of food or beverages, or both, to individuals or nonprofit organizations. For the purposes of this section, "nonprofit organization" means those nonprofit entities currently registered with the secretary of state pursuant to section 30-30-102, Idaho Code.

(p16) The use tax herein imposed by this section shall not apply to a retailer supplying prepared food or beverages free of charge to its employee when that retailer sells prepared food or beverages in its normal course of business.

SECTION 2. 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 ninety (90) days in any twelve (12) month period, and will not be required to be titled under the laws of this state. If the purchaser is a business entity, it must not have been formed under the laws of the state of Idaho in order to qualify for the exemption provided in this section.

(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 that is either:

(i) Sold together with a motor; or

(ii) Eleven (11) feet in length or more, but shall not include canoes, kayaks, paddleboards, inflatable boats or similar watercraft, unless such canoes, kayaks, paddleboards, 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~~ that 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 April 13, 2021

CHAPTER 206
(H.B. No. 217)

AN ACT

RELATING TO INCOME TAXES; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3042A, IDAHO CODE, TO PROVIDE FOR A REBUT-TABLE PRESUMPTION REGARDING EVIDENCE OF TAXPAYER EXPENDITURES.

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

SECTION 1. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3042A, Idaho Code, and to read as follows:

63-3042A. EVIDENCE OF EXPENDITURES. For the purpose of documenting an expenditure as a deduction or credit under this chapter, there is a rebuttable presumption that a taxpayer's statement or invoice from a credit card company or other financial institution reflecting the expenditure serves as evidence that the expenditure was made by the taxpayer. This presumption may be rebutted by competent evidence.

Approved April 13, 2021

CHAPTER 207
(H.B. No. 222)

AN ACT

RELATING TO EDUCATION; AMENDING CHAPTER 1, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-138, IDAHO CODE, TO PROVIDE FOR A REPORT REGARDING HIGH-PERFORMING SCHOOLS AND TEACHERS; AMENDING SECTION 33-320, IDAHO CODE, TO REVISE PROVISIONS REGARDING CONTINUOUS IMPROVEMENT PLANS AND TO ESTABLISH A CERTAIN COMMISSION; AMENDING SECTION 33-1001, IDAHO CODE, TO DEFINE TERMS, TO REVISE DEFINITIONS, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1201A, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR CERTAIN EVALUATIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1212A, IDAHO CODE, TO REMOVE PROVISIONS REGARDING COLLEGE AND CAREER ADVISING PLANS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1616, IDAHO CODE, TO REVISE PROVISIONS REGARDING LITERACY INTERVENTION PLANS; AND AMENDING SECTION 33-515, 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 Chapter 1, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-138, Idaho Code, and to read as follows:

33-138. REPORT -- HIGH-PERFORMING SCHOOLS AND TEACHERS. In the first week of the regular legislative session in 2022, the state board of education shall present to the legislature a statewide strategy for defining and rewarding high-performing schools and teachers for growth in student achievement. The strategy should consider:

- (1) How to incentivize, encourage, and recognize schools and teachers, along with their communities, for dedicated and high-quality work; and
- (2) Ways to reduce disincentives to excel in student achievement.

SECTION 2. That Section 33-320, Idaho Code, be, and the same is hereby amended to read as follows:

33-320. CONTINUOUS IMPROVEMENT PLANS AND TRAINING. (1) Each school district and public charter school in Idaho shall develop an annual plan that is part of a continuous focus on improving the student performance of the district or public charter school. A public charter school may use its performance certificate in lieu of a separate continuous improvement plan.

(2) (a) The board of trustees and the superintendent shall collaborate on the plan and engage students, parents, educators and the community as appropriate. The board of directors and the administrator of a public charter school shall collaborate on the plan and engage students, parents, educators and the community as appropriate. All continuous improvement plans must be approved by the local governing board.

(b) The annual continuous improvement plan shall:

(i) Be data driven, specifically in student outcomes, and shall include, but not be limited to, analyses of demographic data, student achievement and growth data, graduation rates, and college and career readiness;

(ii) Set clear and measurable targets based on student outcomes;

(iii) Include a clearly developed and articulated vision and mission;

(iv) Include key indicators for monitoring performance;

(v) Include student literacy proficiency goals and targets and how progress toward those outcomes will be measured;

(vi) Include, as applicable to the grade ranges served, trajectory growth targets toward literacy proficiency;

(vii) Include, as applicable to the grade ranges served, college and career advising and mentoring goals and how progress toward those outcomes will be measured;

(viii) Include the individual staff performance on each of the performance criteria as defined in section 33-1001, Idaho Code, including measurable student achievement and student success indicator targets and the percentage of students meeting those targets. Data will be aggregated at the grade range, subject, or performance indicator, as determined by the commission and allowed pursuant to section 33-133, Idaho Code;

(ix) Include, at a minimum, the student achievement and growth metrics for the state accountability framework. Student achievement and growth will be reported on each school and district's report card as required by the state board of education and published by the state department of education; and

(x) Include a report of progress toward the previous year's improvement goals.

(c) The annual continuous improvement plan must be reviewed and updated annually no later than October 1 each year.

(d) The board of trustees or the board of directors shall continuously monitor progress toward the goals by utilizing relevant data to measure growth. The progress shall be included in evaluations of the district superintendent or administrator of a public charter school.

(3) The plan must be made available to the public and shall be posted on the school district or charter school website.

(4) Of the moneys appropriated in the public schools educational support program, up to six thousand six hundred dollars (\$6,600) shall be distributed to each school district and public charter school to be expended for training purposes for district superintendents and boards of trustees, public charter school administrators and boards of directors. Funds shall be distributed on a reimbursement basis based on a process prescribed by the superintendent of public instruction. Qualified training shall include

training for continuous improvement processes and planning, strategic planning, finance, superintendent evaluations, public charter administrator evaluations, ethics and governance.

(5) The state board of education shall be granted rulemaking authority to establish appropriate procedures, qualifications and guidelines for qualified training providers and shall prepare a list of qualified training providers within the state of Idaho.

(6) (a) There is hereby established in the office of the state board of education a state commission for education excellence, the purpose of which will be to study and discuss continuous improvement plans established pursuant to this section and measurable student achievement and student success indicators described in section 33-1001, Idaho Code, that have been submitted to the state. The members of the commission shall include:

- (i) One (1) representative of the state board of education, appointed by such board;
- (ii) One (1) representative of the state department of education, appointed by such department;
- (iii) One (1) representative of the office of the governor, appointed by the governor;
- (iv) One (1) representative of business and industry, appointed by the division of career technical education;
- (v) Two (2) members of the majority caucus and one (1) member of the minority caucus in the senate, appointed by the president pro tempore of the senate;
- (vi) Two (2) members of the majority caucus and one (1) member of the minority caucus in the house of representatives, appointed by the speaker of the house of representatives;
- (vii) One (1) parent of a public school student, appointed by the governor;
- (viii) One (1) person who has been recognized as the Idaho teacher of the year, appointed by the governor;
- (ix) One (1) representative of the Idaho school boards association, appointed by such association; and
- (x) One (1) representative of the Idaho association of school administrators, appointed by such association.

(b) The commission shall be staffed by the office of the state board of education. Additional staff support from the legislative services office may be provided as needed.

(c) It is the intent of the legislature that the state commission for education excellence analyze the measurable student achievement data and continuous improvement plans in the various districts and public charter schools in Idaho and then discuss and consider changes in statute or rule that could enhance outcomes. The commission shall determine some high-performing schools and districts, work to leverage their best practices to the rest of the state, and listen to ideas regarding defining and celebrating successes in student achievement. The commission shall meet at least twice annually. One (1) meeting shall be held in the fall for the purpose of studying and discussing the continuous improvement plans' performance measures and benchmarks, and one (1) meeting shall be held in the summer, after data for the prior academic year have been compiled and submitted to the commission, to review reports on statewide student success indicator achievement metrics submitted to the commission by the state department of education and to discuss possible ways to improve desired student outcomes. All such data and related statewide reports shall also be provided to all legislators in Idaho not serving on the commission. A school district's or public charter school's continuous improvement plan shall show how the measurable student achievement and student success indicator

targets are aligned with the continuous improvement plan described in this section. The continuous improvement plan shall be submitted to the state board of education or the board's designee no later than October 1 of each year.

SECTION 3. That Section 33-1001, Idaho Code, be, and the same is hereby amended to read as follows:

33-1001. DEFINITIONS. As used in this chapter:

(1) "Administrative schools" means and applies to all elementary schools and kindergartens within a district that are situated ten (10) miles or less from both the other elementary schools and the principal administrative office of the district and all secondary schools within a district that are situated fifteen (15) miles or less from other secondary schools of the district.

(2) "Administrative staff" means those who hold an administrator certificate and are employed as a superintendent, an elementary or secondary school principal, or are assigned administrative duties over and above those commonly assigned to teachers.

(3) "At-risk student" means a student in grades 6 through 12 who:

(a) Meets at least three (3) of the following criteria:

- (i) Has repeated at least one (1) grade;
- (ii) Has absenteeism greater than ten percent (10%) during the preceding semester;
- (iii) Has an overall grade point average less than 1.5 on a 4.0 scale prior to enrolling in an alternative secondary program;
- (iv) Has failed one (1) or more academic subjects in the past year;
- (v) Is below proficient, based on local criteria, standardized tests, or both;
- (vi) Is two (2) or more credits per year behind the rate required to graduate or for grade promotion; or
- (vii) Has attended three (3) or more schools within the previous two (2) years, not including dual enrollment; or

(b) Meets any of the following criteria:

- (i) Has documented substance abuse or a pattern of substance abuse;
- (ii) Is pregnant or a parent;
- (iii) Is an emancipated youth or unaccompanied youth;
- (iv) Is a previous dropout;
- (v) Has a serious personal, emotional, or medical issue or issues;
- (vi) Has a court or agency referral; or
- (vii) Demonstrates behavior detrimental to the student's academic progress.

(4) "Average daily attendance" or "pupils in average daily attendance" means the aggregate number of days enrolled students are present, divided by the number of days of school in the reporting period; provided, however, that students for whom no Idaho school district is a home district shall not be considered in such computation.

(5) "Career ladder" means the compensation table used for determining the allocations districts receive for instructional staff and pupil service staff based on specific performance criteria and is made up of a residency compensation rung and a professional compensation rung.

(6) "Child with a disability" means a child evaluated as having an intellectual disability, a hearing loss including deafness, a speech or language impairment, a visual impairment including blindness, an emotional behavioral disorder, an orthopedic impairment, autism, a traumatic brain injury, another health impairment, a specific learning disability,

deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

(7) "Compensation rung" means the rung on the career ladder that corresponds with the compensation level performance criteria.

(8) "Economically disadvantaged student" means a student who:

(a) Is eligible for a free or reduced-price lunch under the Richard B. Russell national school lunch act, 42 U.S.C. 1751 et seq., excluding students who are only eligible only through a school's community eligibility program;

(b) Resides with a family receiving assistance under the program of block grants to states for temporary assistance for needy families (TANF) established under part A of title IV of the social security act, 42 U.S.C. 601 et seq.;

(c) Is eligible to receive medical assistance under the medicaid program under title XIX of the social security act, 42 U.S.C. 1396 et seq.; or

(d) Is considered homeless for purposes of the federal McKinney-Vento homeless assistance act, 42 U.S.C. 11301 et seq.

(9) "Elementary grades" or "elementary average daily attendance" means and applies to students enrolled in grades 1 through 6, inclusive, or any combination thereof.

(10) "Elementary schools" are schools that serve grades 1 through 6, inclusive, or any combination thereof.

(11) "Elementary/secondary schools" are schools that serve grades 1 through 12, inclusive, or any combination thereof.

(12) "English language learner" or "ELL" means a student who does not score proficient on the English language development assessment established by rule of the state board of education.

(13) "Gifted and talented" shall have the same meaning as provided in section 33-2001(4), Idaho Code.

(14) "Homebound student" means any student who would normally and regularly attend school, but is confined to home or hospital because of an illness or accident for a period of ten (10) or more consecutive days.

(15) "Instructional staff" means those who hold an Idaho certificate issued under section 33-1201, Idaho Code, and who are either involved in the direct instruction of a student or group of students or who serve in a mentor or teacher leader position for individuals who hold an Idaho certificate issued under section 33-1201, Idaho Code.

(16) "Kindergarten" or "kindergarten average daily attendance" means and applies to all students enrolled in a school year, less than a school year, or summer kindergarten program.

(17) "Local salary schedule" means a compensation table adopted by a school district or public charter school, which table is used for determining moneys to be distributed for instructional staff and pupil service staff salaries. Minimum compensation provided under a local salary schedule shall be at least equal to thirty-eight thousand five hundred dollars (\$38,500) or, for staff holding a professional endorsement, forty-two thousand five hundred dollars (\$42,500).

(18) "Measurable student achievement" means the measurement of student academic achievement or growth within a given interval of instruction for those students who have been enrolled in and attended eighty percent (80%) of the interval of instruction. Measures and targets shall be chosen at the school level in collaboration with the staff member impacted by the measures and applicable district staff and approved ~~at the district level by the school board.~~ Measures and targets must also align with the performance measures and benchmarks in the continuous improvement plan described in section 33-320, Idaho Code. The most effective measures and targets are those generated as close to the actual work as possible. Targets may be based on grade- or department-level achievement or growth goals that create

collaboration within groups. Individual measurable student achievement targets and the percentage of students meeting individual targets must be reported annually to the state. Assessment tools that may be used for measuring student achievement and growth include:

- (a) Idaho standards achievement test (ISAT), including interim ISAT assessments;
- (b) Student learning objectives;
- (c) ~~Formative assessments;~~
- ~~(d) Teacher-constructed assessments of student growth;~~
- (e) Pre- and post-tests, including district-adopted tests;
- (f) Performance-based assessments;
- (g) Idaho reading indicator, which will be one (1) of the required assessment tools for applicable staff;
- (h) College entrance exams or preliminary college entrance exams such as PSAT, SAT, PACT, and ACT;
- ~~(i) District-adopted assessment;~~
- ~~(j) End-of-course exams;~~
- (k) Advanced placement exams; and
- (l) Career technical exams;
- (m) Number of business or industry certificates or credentials earned by students in an approved career technical education program;
- (n) Number of students completing career technical education capstone courses; and
- (o) Number of students enrolled in career technical education courses that are part of a program that culminates with business or industry certificates or credentials.

(19) "Performance criteria" means the standards specified for instructional staff and pupil service staff to demonstrate teaching proficiency for a given compensation rung. Each element of the professional compensation rung and advanced professional compensation rung performance criteria, as identified in this section and as applicable to a staff member's position, shall be documented, reported, and subject to review for determining movement on the career ladder.

- (20) (a) "Professional compensation rung performance criteria" means:
 - (i) An overall rating of proficient or higher, and no components rated as unsatisfactory, on the state framework for teaching evaluation; and
 - (ii) Demonstrating the majority of students have met measurable student achievement targets or student success indicator targets.
- (b) "Advanced professional compensation rung performance criteria" means:
 - (i) An overall rating of proficient or higher, no components rated as unsatisfactory or basic, and rated as distinguished overall in domain two -- classroom environment, or domain three -- instruction and use of assessment, on the state framework for teaching evaluation or equivalent for pupil service staff; and
 - (ii) Demonstrating seventy-five percent (75%) or more of their students have met their measurable student achievement targets or student success indicator targets.

(21) "Public school district" or "school district" or "district" means any public school district organized under the laws of this state, including specially chartered school districts.

(22) "Pupil service staff" means those who provide services to students, but are not involved in direct instruction of those students, and hold a pupil personnel services certificate.

(23) "School board" means a school district board of trustees or the board of directors of a public charter school.

(24) "Secondary grades" or "secondary average daily attendance" means and applies to students enrolled in grades 7 through 12, inclusive, or any combination thereof.

(245) "Secondary schools" are schools that serve grades 7 through 12, inclusive, or any combination thereof.

(256) "Separate elementary school" means an elementary school located more than ten (10) miles on an all-weather road from both the nearest elementary school and elementary/secondary school serving like grades within the same school district and from the location of the office of the superintendent of schools of such district, or from the office of the chief administrative officer of such district if the district employs no superintendent of schools.

(267) "Separate kindergarten" means a kindergarten located more than ten (10) miles on an all-weather road from both the nearest kindergarten school within the same school district and from the location of the office of the superintendent of schools of such district, or from the office of the chief administrative officer of such district if the district employs no superintendent of schools.

(278) "Separate secondary school" means any secondary school located more than fifteen (15) miles on an all-weather road from any other secondary school and elementary/secondary school serving like grades operated by the district.

(289) "Special education" means specially designed instruction or speech/language therapy at no cost to the parent to meet the unique needs of a student who is a child with a disability, including instruction in the classroom, the home, hospitals, institutions, and other settings; instruction in physical education; speech therapy and language therapy; transition services; travel training; assistive technology services; and vocational education.

(2930) "Student learning plan" means a plan that outlines a student's program of study, which should include a rigorous academic core and a related sequence of electives in academic, career technical education, or humanities aligned with the student's post-graduation goals.

(31) "Student success indicators" means measurable indicators of student achievement or growth, other than academic, within a predefined interval of time for a specified group of students. Measures and targets shall be chosen at the district or school level in collaboration with the pupil service staff member impacted by the measures and applicable district staff. Individual measurable student achievement targets and the percentage of students meeting each target must be reported annually to the state. Student success indicators include:

(a) Quantifiable goals stated in a student's 504 plan or individualized education plan.

(b) Quantifiable goals stated in a student's behavior improvement plan.

(c) School- or district-identified measurable student objectives for a specified student group or population.

(d) The percentage of students who create student learning plans in grade 8 or who annually update their student learning plans thereafter.

(e) The percentage of students who satisfactorily complete one (1) or more advanced opportunities options as identified in section 33-4602, Idaho Code, or who earn business or industry certificates or credentials. This indicator shall be one (1) of the required indicators for applicable staff.

(302) "Support program" means the educational support program as described in section 33-1002, Idaho Code, the transportation support program described in section 33-1006, Idaho Code, and the exceptional education support program as described in section 33-1007, Idaho Code.

(313) "Support unit" means a function of average daily attendance used in the calculations to determine financial support provided to the public school districts.

(324) "Teacher" means any person employed in a teaching, instructional, supervisory, educational administrative or educational and scientific capacity in any school district. In case of doubt, the state board of education shall determine whether any person employed requires certification as a teacher.

SECTION 4. That Section 33-1201A, Idaho Code, be, and the same is hereby amended to read as follows:

33-1201A. IDAHO PROFESSIONAL ENDORSEMENT -- ELIGIBILITY. (1) Any instructional staff employee or any pupil service staff employee will receive mentoring as outlined in such employee's individualized professional learning plan during the initial three (3) years of holding such certificate. Upon holding a certificate for three (3) years, any such instructional staff or pupil service staff employee may apply for an Idaho professional endorsement. Upon holding a professional endorsement for five (5) years or more, any such instructional staff or pupil service staff employee may apply for an Idaho advanced professional endorsement.

(2) To be eligible for an Idaho professional endorsement, the instructional staff or pupil service staff employee must:

- (a) Have held a certificate for at least three (3) years, or have completed a state board of education-approved interim certificate of three (3) years or longer;
- (b) Show they met the professional compensation rung performance criteria for two (2) of the three (3) previous years or the third year;
- (c) Have a written recommendation from the employing school district; and
- (d) Have an annual individualized professional learning plan developed in conjunction with the employee's school district supervisor.

Instructional staff employees may provide additional evidence demonstrating effective teaching that may be considered in exceptional cases for purposes of determining proficiency and student achievement in the event required standards for professional endorsement are not met. Pupil service staff employees may provide additional evidence demonstrating effective student achievement or success that may be considered in exceptional cases for purposes of determining proficiency and student achievement or success in the event required standards for professional endorsement are not met.

(3) To be eligible for an Idaho advanced professional endorsement, the instructional staff or pupil service staff employee must:

- (a) Have held a renewable certificate for at least eight (8) years or more, or have completed a state board of education-approved interim certificate of three (3) years or longer and held a renewable certificate for five (5) years or more;
- (b) Show they met the professional compensation rung performance criteria for four (4) of the five (5) previous years or the third, fourth, and fifth year;
- (c) During three (3) of the previous five (5) years, have served in an additional building or district leadership role in an Idaho public school, including but not limited to:
 - (i) Instructional specialist or instructional coach;
 - (ii) Mentor;
 - (iii) Curriculum or assessment committee member;
 - (iv) Team or committee leadership position;
 - (v) Data coach; or
 - (vi) Other leadership positions identified by the school district;

(d) Have a written recommendation from the employing school district;
(e) Have an annual individualized professional learning plan developed in conjunction with the employee's supervisor and a self-evaluation;
and

(f) (i) Effective July 1, 2020, through June 30, 2021, show they have met the advanced professional compensation rung performance criteria for three (3) of the five (5) previous years or the fifth year;

(ii) Effective July 1, 2021, through June 30, 2022, show they have met the advanced professional compensation rung performance criteria for three (3) of the five (5) previous years or the fourth and fifth year; or

(iii) Effective July 1, 2022, show they have met the advanced professional compensation rung performance criteria for three (3) of the five (5) previous years.

Instructional staff employees may provide additional evidence demonstrating effective teaching that may be considered in exceptional cases for purposes of determining proficiency and student achievement in the event required standards for the advanced professional endorsement are not met. Pupil service staff employees may provide additional evidence demonstrating effective student achievement or success that may be considered in exceptional cases for purposes of determining proficiency and student achievement or success in the event required standards for the advanced professional endorsement are not met.

(4) Instructional staff and pupil service staff shall be eligible for the professional endorsement if they:

(a) Have a written recommendation from the employing school district;

(b) Have worked in a certificated position in a compact-member state pursuant to section 33-4101, Idaho Code; and

(c) Would have been eligible to work in a certificated position in an Idaho public school based on that certification for three (3) to eight (8) years.

(5) Instructional staff and pupil service staff shall be eligible for the advanced professional endorsement if they:

(a) Have a written recommendation from the employing school district;

(b) Have worked in a certificated position in a compact-member state pursuant to section 33-4101, Idaho Code; and

(c) Would have been eligible to work in a certificated position in an Idaho public school based on that certification for nine (9) years or more.

(6) Individuals holding a professional endorsement or an advanced professional endorsement will be annually evaluated in at least two (2) domains in the state evaluation framework approved by the state board of education. All other instructional or pupil service staff employees must be evaluated across all domains in the evaluation framework. Ratings in domain 2 or domain 3 are required as part of the advanced professional compensation rung performance criteria.

(7) The state board of education shall promulgate rules implementing the provisions of this section.

(78) For the purposes of this section:

(a) "Certificate" means an Idaho instructional certificate, pupil service staff certificate, or out-of-state educator certificate that meets the requirements for reciprocity under rules promulgated by the state board of education;

(b) In conjunction with the Idaho evaluation framework, "individualized professional learning plan" means an individualized professional development plan based on the Idaho framework for teaching evaluation and includes, at a minimum, identified interventions based on the individual's strengths and areas of needed growth, how the individual will

set student achievement and growth goals, and areas of identified professional development and mentoring that target continuous improvement in professional areas, future student achievement, and school building or district culture;

(c) "Instructional staff" means those involved in the direct instruction of a student or group of students and who hold a certificate issued under section 33-1201, Idaho Code;

(d) "Pupil service staff" means those who provide services to students but are not involved in direct instruction of those students and who hold a certificate issued under section 33-1201, Idaho Code; and

(e) "School district" means a school district or a public charter school.

SECTION 5. That Section 33-1212A, Idaho Code, be, and the same is hereby amended to read as follows:

33-1212A. COLLEGE AND CAREER ADVISORS AND STUDENT MENTORS. (1) College and career advising and student mentoring ~~is an~~ are essential components 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 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 college 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 all staff serving in the role of student mentors or advisors. All individuals providing services in the role of a college 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 and career advising provided by the district and how to access such services.~~

~~(6) School districts and charter schools shall report annually on the effectiveness of their college and career advising programs 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.~~

SECTION 6. That Section 33-1616, Idaho Code, be, and the same is hereby amended 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 assessments or alternate reading assessment in kindergarten through grade 3 and ~~submit it to the state board of education.~~

(2) The program:

(a) Shall provide 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. Online or digital materials that are part of a core literacy program are not required to be approved as described in subsection (3) of this section;

(c) Shall include 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) Shall include 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) (a) The state board of education shall select and approve adaptive learning technology literacy intervention providers through a request for proposals process to provide literacy intervention tools that are adaptive to a child's personalized learning needs for school districts and public charter schools to use as part of their literacy intervention programs for students in kindergarten through grade 3. Such a tool shall:

(i) Be an academic program focused on building age-appropriate literacy skills that, at a minimum, include phonological awareness, phonics, fluency, comprehension, and vocabulary;

(ii) Use an evidence-based early intervention model; and

(iii) Include a parental engagement and involvement component that allows parents to participate in their student's use of the tool at school or at home.

(b) A tool offered by an approved provider must be evaluated each year to determine effectiveness by an independent external evaluator in order for the provider to remain approved. The evaluation will be based on a full academic year of implementation of tools implemented with fidelity and will include, at a minimum, growth toward proficiency measures. A provider of an intervention tool described in this subsection shall not provide the reading assessment pursuant to section 33-1615, Idaho Code.

(4) 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.

(5) For the purpose of program reimbursement, the state department of education shall adopt reporting forms, and 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 at grade level by the end of the third grade.~~

(6) 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, based on the science of reading, 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.

(7) 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. The state board of education shall also adopt a timeline sufficient to assure that the literacy intervention tool described in subsection (3) of this section is available for school districts and public charter schools to effectively implement for the 2020-2021 school year.~~

SECTION 7. 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 (324) 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 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 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 April 13, 2021

CHAPTER 208
(H.B. No. 231)

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-708A, IDAHO CODE, TO REVISE PROVISIONS REGARDING INDEPENDENT CANDIDATES FOR PRESIDENT AND VICE PRESIDENT.

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

SECTION 1. That Section 34-708A, Idaho Code, be, and the same is hereby amended to read as follows:

34-708A. INDEPENDENT CANDIDATES FOR PRESIDENT AND VICE-PRESIDENT VICE PRESIDENT. (1) Persons who desire to be independent candidates for the offices of president and vice-president vice president, must file, prior to August 25 of the election year, declarations of candidacy as independent candidates during the period set forth in section 34-704, Idaho Code. Such declarations must state that such persons are offering themselves as independent candidates and must declare that they have no political party affiliation. The declarations shall have attached thereto a petition signed by one thousand (1,000) qualified electors.

(2) The candidates for president and vice-president vice president shall be considered as candidates for one (1) office, and only one (1) such petition need be filed for both offices.

(3) Signatures on the petitions required in this section shall be verified in the manner prescribed in section 34-1807, Idaho Code, provided that the petition circulators are not required to be Idaho residents.

Approved April 13, 2021

CHAPTER 209
(H.B. No. 243)

AN ACT

RELATING TO CAMPAIGN FINANCE; AMENDING SECTION 67-6610A, IDAHO CODE, TO REVISE PROVISIONS REGARDING CANDIDATE CAMPAIGN CONTRIBUTION LIMITATIONS.

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

SECTION 1. That Section 67-6610A, Idaho Code, be, and the same is hereby amended to read as follows:

67-6610A. LIMITATIONS ON CONTRIBUTIONS. (1) Except as provided in subsection (2) of this section, aggregate contributions for a primary election or a general election made by a corporation, political committee, other recognized legal entity or an individual shall be subject to the limitations of this subsection; ~~provided, however, this.~~ This subsection shall not apply to a candidate contributing or loaning money to his own campaign account or to a candidate for a state legislative office who, in terminating his campaign account, transfers the balance of funds to that candidate's new campaign account for a different state legislative office. In such case, any contributions received in the closed account, combined with any contributions received in the new account, shall count against the contribution limits provided in this subsection when received from the same contributor for the same election date.

(a) Aggregate contributions by a corporation, political committee, other recognized legal entity, or an individual to a candidate for the state legislature, judicial office, or local government office, and political committees organized on the candidate's behalf, shall be limited to an amount not to exceed one thousand dollars (\$1,000) for the primary election and an amount not to exceed one thousand dollars (\$1,000) for the general election.

(b) Aggregate contributions for a primary election or a general election by a corporation, political committee, other recognized legal entity or an individual to a candidate for statewide office and political committees organized on the candidate's behalf shall be limited to an amount not to exceed five thousand dollars (\$5,000) for the primary election and an amount not to exceed five thousand dollars (\$5,000) for the general election.

(2) Aggregate contributions for a primary election or for a general election made by a county central committee or by the state central committee of the political parties qualified under section 34-501, Idaho Code, to a candidate for the state legislature and political committees organized on the candidate's behalf shall be limited to an amount not to exceed two thousand dollars (\$2,000) for the primary election and an amount not to exceed two thousand dollars (\$2,000) for the general election. Aggregate contributions for the primary election or the general election by the state central committee of the political parties qualified under section 34-501, Idaho Code, to a candidate for statewide office and political committees organized on the candidate's behalf shall be limited to an amount not to exceed ten thousand dollars (\$10,000) for the primary election and an amount not to exceed ten thousand dollars (\$10,000) for the general election.

(3) For purposes of this section, "statewide office" shall mean an office in state government that shall appear on the primary or general election ballot throughout the state.

(4) Recall and special elections, for purposes of this section, shall be treated the same as general elections for contribution limits.

(5) Contributions other than money or its equivalent are deemed to have a monetary value equivalent to the fair market value of the contribution. Services or property or rights furnished at less than their fair market value for the purpose of assisting any candidate or political committee are deemed a contribution. A contribution of this kind shall be reported as an in-kind contribution at its fair market value and counts toward any applicable contribution limit of the contributor. Contributions shall not include the personal services of volunteers.

(6) For the purposes of contribution limits, the following apply:

(a) A contribution by a political committee with funds that have all been contributed by one (1) person who exercises exclusive control over the distribution of the funds of the political committee is a contribution by the controlling person.

(b) All contributions made by a person or political committee whose contribution or expenditure activity is financed, maintained or controlled by a trade association, labor union or collective bargaining organization shall be considered a contribution from such trade association, labor union or collective bargaining organization.

(c) Two (2) or more entities are treated as a single entity if the entities:

- (i) Share the majority of members on their board of directors;
- (ii) Share two (2) or more officers;
- (iii) Are owned or controlled by the same majority shareholder or shareholders or persons;
- (iv) Are in a parent-subsidiary relationship; or
- (v) Have bylaws so stating.

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

Approved April 13, 2021

CHAPTER 210
(H.B. No. 250, As Amended)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-4602, IDAHO CODE, TO PROVIDE THAT ADVANCED OPPORTUNITIES FUNDS MAY BE USED FOR COLLEGE ENTRANCE EXAMINATIONS, PRELIMINARY COLLEGE ENTRANCE EXAMINATIONS, AND CERTAIN COSTS.

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

SECTION 1. That Section 33-4602, Idaho Code, be, and the same is hereby amended 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, postsecondary credit-bearing examinations, career technical certificate examinations, and career technical education workforce training courses, college entrance examinations, and preliminary college entrance 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. To qualify as an eligible overload course for the program, the course must:

(i) Be offered by a provider accredited by the organization that accredits Idaho public schools; and

(ii) Be taught by an individual certified to teach the grade and subject area of the course in Idaho.

(b) Eligible dual credits, the distribution of which may not exceed seventy-five dollars (\$75.00) per one (1) dual credit hour. Dual credit courses must be offered by a regionally accredited postsecondary institution. To qualify as an eligible dual credit course, the course must be a credit-bearing 100 level course or higher.

(c) Eligible postsecondary credit-bearing or career technical certificate examinations. The state department of education shall maintain a list of eligible exams and costs. Eligible costs include the cost of the examination, proctor fees, and administrative fees. Eligible examinations include:

(i) Advanced placement (AP);

(ii) International baccalaureate (IB);

(iii) College-level examination program (CLEP); and

(iv) Career technical education examinations that lead to an industry-recognized certificate, license, or degree.

(d) CTE workforce training courses, such as federally registered apprenticeships, the distribution of which may not exceed five hundred dollars (\$500) per course and one thousand dollars (\$1,000) per year. The state department of education shall collaborate with the division

of career technical education to maintain a list of eligible training courses and costs. Eligible training courses must:

- (i) Be provided by an Idaho public technical college;
- (ii) Lead to an industry-recognized certificate, license, or degree;
- (iii) Be required training for occupations deemed regionally in demand;
- (iv) Be courses that are not otherwise available at the student's high school; and
- (v) Allow high school-aged students to participate.

(e) College entrance examinations and preliminary college entrance examinations. The state department of education shall maintain a list of eligible examinations and costs, provided that a student may not use funds provided under this section to take the same examination more than once. Eligible costs include the cost of the examination, proctor fees, and administrative fees. Eligible examinations include the SAT, the PSAT, the ACT, and other similar examinations identified by the department.

(2) A student who has earned fifteen (15) postsecondary credits using the advanced opportunities program and who wishes to earn additional credits must first identify his postsecondary goals. Advisors shall counsel any student who wishes to take dual credit courses that the student should ascertain for himself whether the particular postsecondary institution that he desires to attend will accept the transfer of coursework credits under this section.

(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 section. These moneys shall not supplant existing program funds. Payments made under this section 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 section 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 that public school. Students must apply for the scholarship within two (2) years of graduating from a 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 or successfully complete a course for which the department has paid a reimbursement, the student must pay for and successfully earn credit or complete 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 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 schools 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 the student's 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 enrolling in postsecondary courses. Participating school districts, charter schools and Idaho public postsecondary educational institutions shall report to the state board of education and the education committees of the senate and 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.

Approved April 13, 2021

CHAPTER 211
(H.B. No. 276)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-30220, IDAHO CODE, TO REVISE PROVISIONS REGARDING BUSINESS DEPRECIATION INCOME TAX DEDUCTIONS; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-30220, Idaho Code, be, and the same is hereby amended to read as follows:

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

(1) The adjusted basis of depreciable property, depreciation and gains and losses from sale, exchange or other disposition of depreciable property acquired after September 10, 2001, and before December 31, 2007, shall be computed without regard to subsection (k) of section 168 of the Internal Revenue Code and the adjusted basis of depreciable property, depreciation and gains and losses from sale, exchange or other disposition of depreciable property acquired after December 31, 2009, shall be computed without regard to subsection (k) of section 168 of the Internal Revenue Code, provided that to the extent a taxpayer cannot use the additional depreciation claimed under subsection (k) of section 168 of the Internal Revenue Code in the current year for federal income tax purposes because of loss limitations imposed by sections 465, 469, 704(d) and 1366(d) of the Internal Revenue Code, then such additional depreciation shall not be added back to federal taxable income in order to determine Idaho taxable income; and

~~(2) Adjustments in computing Idaho taxable income required by subsection (1) of this section shall be made without regard to The loss limitations imposed by sections 465, 469, 704(d) and 1366(d) of the Internal Revenue Code shall be calculated without regard to depreciation claimed for federal tax purposes pursuant to subsection (k) of section 168 of the Internal Revenue Code; and~~

~~(3) A taxpayer's basis in an interest in a pass-through entity, amount at risk, and passive activity loss carryover shall be the same amount for purposes of the Idaho income tax act as the amount determined under the Internal Revenue Code; and~~

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

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

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, 2021.

Approved April 13, 2021

CHAPTER 212
(H.B. No. 277)

AN ACT

RELATING TO THE BOARD OF TAX APPEALS; AMENDING CHAPTER 38, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3810A, IDAHO CODE, TO PROVIDE FOR TAXPAYER REPRESENTATION IN A HEARING OR REHEARING BEFORE THE BOARD OF TAX APPEALS.

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

SECTION 1. That Chapter 38, 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 63-3810A, Idaho Code, and to read as follows:

63-3810A. REPRESENTATION AT HEARING. A taxpayer has the right to appear or to be represented by another person of his choosing in any hearing or rehearing held on the taxpayer's appeal. The presiding officer must afford the taxpayer or his representative, or both, adequate notice and opportunity to participate in any hearing or rehearing of the taxpayer's case.

Approved April 13, 2021

CHAPTER 213
(H.B. No. 280)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1001, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-1201A, IDAHO CODE, TO REVISE PROVISIONS REGARDING PROFESSIONAL ENDORSEMENTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-1001, Idaho Code, be, and the same is hereby amended to read as follows:

33-1001. DEFINITIONS. As used in this chapter:

(1) "Administrative schools" means and applies to all elementary schools and kindergartens within a district that are situated ten (10) miles or less from both the other elementary schools and the principal administrative office of the district and all secondary schools within a district that are situated fifteen (15) miles or less from other secondary schools of the district.

(2) "Administrative staff" means those who hold an administrator certificate and are employed as a superintendent, an elementary or secondary school principal, or are assigned administrative duties over and above those commonly assigned to teachers.

(3) "At-risk student" means a student in grades 6 through 12 who:

(a) Meets at least three (3) of the following criteria:

(i) Has repeated at least one (1) grade;

(ii) Has absenteeism greater than ten percent (10%) during the preceding semester;

(iii) Has an overall grade point average less than 1.5 on a 4.0 scale prior to enrolling in an alternative secondary program;

(iv) Has failed one (1) or more academic subjects in the past year;

(v) Is below proficient, based on local criteria, standardized tests, or both;

(vi) Is two (2) or more credits per year behind the rate required to graduate or for grade promotion; or

(vii) Has attended three (3) or more schools within the previous two (2) years, not including dual enrollment; or

(b) Meets any of the following criteria:

(i) Has documented substance abuse or a pattern of substance abuse;

(ii) Is pregnant or a parent;

(iii) Is an emancipated youth or unaccompanied youth;

(iv) Is a previous dropout;

(v) Has a serious personal, emotional, or medical issue or issues;

(vi) Has a court or agency referral; or

(vii) Demonstrates behavior detrimental to the student's academic progress.

(4) "Average daily attendance" or "pupils in average daily attendance" means the aggregate number of days enrolled students are present, divided by the number of days of school in the reporting period; provided, however, that students for whom no Idaho school district is a home district shall not be considered in such computation.

(5) "Career ladder" means the compensation table used for determining the allocations districts receive for instructional staff and pupil service

staff based on specific performance criteria and is made up of a residency compensation rung and a professional compensation rung.

(6) "Child with a disability" means a child evaluated as having an intellectual disability, a hearing loss including deafness, a speech or language impairment, a visual impairment including blindness, an emotional behavioral disorder, an orthopedic impairment, autism, a traumatic brain injury, another health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

(7) "Compensation rung" means the rung on the career ladder that corresponds with the compensation level performance criteria.

(8) "Economically disadvantaged student" means a student who:

(a) Is eligible for a free or reduced-price lunch under the Richard B. Russell national school lunch act, 42 U.S.C. 1751 et seq., excluding students who are only eligible through a school's community eligibility program;

(b) Resides with a family receiving assistance under the program of block grants to states for temporary assistance for needy families (TANF) established under part A of title IV of the social security act, 42 U.S.C. 601 et seq.;

(c) Is eligible to receive medical assistance under the medicaid program under title XIX of the social security act, 42 U.S.C. 1396 et seq.; or

(d) Is considered homeless for purposes of the federal McKinney-Vento homeless assistance act, 42 U.S.C. 11301 et seq.

(9) "Elementary grades" or "elementary average daily attendance" means and applies to students enrolled in grades 1 through 6, inclusive, or any combination thereof.

(10) "Elementary schools" are schools that serve grades 1 through 6, inclusive, or any combination thereof.

(11) "Elementary/secondary schools" are schools that serve grades 1 through 12, inclusive, or any combination thereof.

(12) "English language learner" or "ELL" means a student who does not score proficient on the English language development assessment established by rule of the state board of education.

(13) "Gifted and talented" shall have the same meaning as provided in section 33-2001(4), Idaho Code.

(14) "Homebound student" means any student who would normally and regularly attend school, but is confined to home or hospital because of an illness or accident for a period of ten (10) or more consecutive days.

(15) "Instructional staff" means those who hold an Idaho certificate issued under section 33-1201, Idaho Code, and who are either involved in the direct instruction of a student or group of students or who serve in a mentor or teacher leader position for individuals who hold an Idaho certificate issued under section 33-1201, Idaho Code.

(16) "Kindergarten" or "kindergarten average daily attendance" means and applies to all students enrolled in a school year, less than a school year, or summer kindergarten program.

(17) "Local salary schedule" means a compensation table adopted by a school district or public charter school, which table is used for determining moneys to be distributed for instructional staff and pupil service staff salaries. Minimum compensation provided under a local salary schedule shall be at least equal to ~~thirty-eight thousand five hundred dollars (\$38,500)~~ or, for staff holding a professional endorsement, ~~forty-two thousand five hundred dollars (\$42,500)~~ the minimum amounts established pursuant to section 33-1004E, Idaho Code.

(18) "Measurable student achievement" means the measurement of student academic achievement or growth within a given interval of instruction for those students who have been enrolled in and attended eighty percent (80%)

of the interval of instruction. Measures and targets shall be chosen at the school level in collaboration with the staff member impacted by the measures and applicable district staff and approved at the district level. The most effective measures and targets are those generated as close to the actual work as possible. Targets may be based on grade- or department-level achievement or growth goals that create collaboration within groups. Assessment tools that may be used for measuring student achievement and growth include:

- (a) Idaho standards achievement test;
- (b) Student learning objectives;
- (c) Formative assessments;
- (d) Teacher-constructed assessments of student growth;
- (e) Pre- and post-tests;
- (f) Performance-based assessments;
- (g) Idaho reading indicator;
- (h) College entrance exams or preliminary college entrance exams such as PSAT, SAT and ACT;
- (i) District-adopted assessment;
- (j) End-of-course exams;
- (k) Advanced placement exams; and
- (l) Career technical exams.

(19) "Performance criteria" means the standards specified for instructional staff and pupil service staff to demonstrate teaching proficiency for a given compensation rung. Each element of the professional compensation rung and advanced professional compensation rung performance criteria, as identified in this section and as applicable to a staff member's position, shall be documented, reported, and subject to review for determining movement on the career ladder.

- (20) (a) "Professional compensation rung performance criteria" means:
- (i) An overall rating of proficient or higher, and no components rated as unsatisfactory, on the state framework for teaching evaluation; and
 - (ii) Demonstrating the majority of students have met measurable student achievement targets or student success indicator targets.

(b) "Advanced professional compensation rung performance criteria" means:

- (i) An overall rating of proficient or higher, no components rated as unsatisfactory or basic, and rated as distinguished overall in domain two -- classroom environment, or domain three -- instruction and use of assessment, on the state framework for teaching evaluation or equivalent for pupil service staff; and
- (ii) Demonstrating seventy-five percent (75%) or more of their students have met their measurable student achievement targets or student success indicator targets.

(21) "Public school district" or "school district" or "district" means any public school district organized under the laws of this state, including specially chartered school districts.

(22) "Pupil service staff" means those who provide services to students, but are not involved in direct instruction of those students, and hold a pupil personnel services certificate.

(23) "Secondary grades" or "secondary average daily attendance" means and applies to students enrolled in grades 7 through 12, inclusive, or any combination thereof.

(24) "Secondary schools" are schools that serve grades 7 through 12, inclusive, or any combination thereof.

(25) "Separate elementary school" means an elementary school located more than ten (10) miles on an all-weather road from both the nearest elementary school and elementary/secondary school serving like grades within the same school district and from the location of the office of the superin-

tendent of schools of such district, or from the office of the chief administrative officer of such district if the district employs no superintendent of schools.

(26) "Separate kindergarten" means a kindergarten located more than ten (10) miles on an all-weather road from both the nearest kindergarten school within the same school district and from the location of the office of the superintendent of schools of such district, or from the office of the chief administrative officer of such district if the district employs no superintendent of schools.

(27) "Separate secondary school" means any secondary school located more than fifteen (15) miles on an all-weather road from any other secondary school and elementary/secondary school serving like grades operated by the district.

(28) "Special education" means specially designed instruction or speech/language therapy at no cost to the parent to meet the unique needs of a student who is a child with a disability, including instruction in the classroom, the home, hospitals, institutions, and other settings; instruction in physical education; speech therapy and language therapy; transition services; travel training; assistive technology services; and vocational education.

(29) "Student success indicators" means measurable indicators of student achievement or growth, other than academic, within a predefined interval of time for a specified group of students. Measures and targets shall be chosen at the district or school level in collaboration with the pupil service staff member impacted by the measures and applicable district staff. Student success indicators include:

(a) Quantifiable goals stated in a student's 504 plan or individualized education plan.

(b) Quantifiable goals stated in a student's behavior improvement plan.

(c) School- or district-identified measurable student objectives for a specified student group or population.

(30) "Support program" means the educational support program as described in section 33-1002, Idaho Code, the transportation support program described in section 33-1006, Idaho Code, and the exceptional education support program as described in section 33-1007, Idaho Code.

(31) "Support unit" means a function of average daily attendance used in the calculations to determine financial support provided to the public school districts.

(32) "Teacher" means any person employed in a teaching, instructional, supervisory, educational administrative or educational and scientific capacity in any school district. In case of doubt, the state board of education shall determine whether any person employed requires certification as a teacher.

SECTION 2. That Section 33-1201A, Idaho Code, be, and the same is hereby amended to read as follows:

33-1201A. IDAHO PROFESSIONAL ENDORSEMENT -- ELIGIBILITY. (1) Any instructional staff employee or any pupil service staff employee will receive mentoring as outlined in such employee's individualized professional learning plan during the initial three (3) years of holding such certificate. Upon holding a certificate for three (3) years, any such instructional staff or pupil service staff employee may apply for an Idaho professional endorsement. Upon holding a professional endorsement for five (5) years or more, any such instructional staff or pupil service staff employee may apply for an Idaho advanced professional endorsement. Individuals who hold an instructional staff certificate and a pupil service staff certificate shall have their experience based on the overall years of experience if

held consecutively or the certificate they have held the longest if dually certificated.

(2) To be eligible for an Idaho professional endorsement, the instructional staff or pupil service staff employee must:

(a) Have held a certificate and been employed in a public school for at least three (3) years, or have completed a state board of education-approved interim certificate of three (3) years or longer;

(b) Show they met the professional compensation rung performance criteria for two (2) of the three (3) previous years or the third year;

(c) Have a written recommendation from the employing school district; and

(d) Have an annual individualized professional learning plan developed in conjunction with the employee's school district supervisor.

Instructional staff employees may provide additional evidence demonstrating effective teaching that may be considered in exceptional cases for purposes of determining proficiency and student achievement in the event required standards for professional endorsement are not met. Pupil service staff employees may provide additional evidence demonstrating effective student achievement or success that may be considered in exceptional cases for purposes of determining proficiency and student achievement or success in the event required standards for professional endorsement are not met.

(3) To be eligible for an Idaho advanced professional endorsement, the instructional staff or pupil service staff employee must:

(a) Have held a renewable certificate and been employed in a public school for at least eight (8) years or more, or have completed a state board of education-approved interim certificate of three (3) years or longer and held a renewable certificate and been employed in a public school for five (5) years or more;

(b) Show they met the professional compensation rung performance criteria for four (4) of the five (5) previous years or the third, fourth, and fifth year;

(c) During three (3) of the previous five (5) years, have served in an additional building or district leadership role in an Idaho public school, including but not limited to:

(i) Instructional specialist or instructional coach;

(ii) Mentor;

(iii) Curriculum or assessment committee member;

(iv) Team or committee leadership position;

(v) Data coach; or

(vi) Other leadership positions identified by the school district;

(d) Have a written recommendation from the employing school district;

(e) Have an annual individualized professional learning plan developed in conjunction with the employee's supervisor and a self-evaluation; and

(f) (i) Effective July 1, 2020, through June 30, 2021, show they have met the advanced professional compensation rung performance criteria for three (3) of the five (5) previous years or the fifth year;

(ii) Effective July 1, 2021, through June 30, 2022, show they have met the advanced professional compensation rung performance criteria for three (3) of the five (5) previous years or the fourth and fifth year; or

(iii) Effective July 1, 2022, show they have met the advanced professional compensation rung performance criteria for three (3) of the five (5) previous years.

Instructional staff employees may provide additional evidence demonstrating effective teaching that may be considered in exceptional cases for purposes of determining proficiency and student achievement in the event required standards for the advanced professional endorsement are not met. Pupil service staff employees may provide additional evidence demonstrating effective student achievement or success that may be considered in exceptional cases for purposes of determining proficiency and student achievement or success in the event required standards for the advanced professional endorsement are not met.

(4) Instructional staff and pupil service staff who have been certified in another state and have not previously held certification in the state of Idaho shall be eligible for the professional endorsement if they:

- (a) Have a written recommendation from the employing school district;
- (b) Have worked in a certificated position in a compact-member state other than Idaho pursuant to section 33-41014, Idaho Code; and
- (c) Would have been eligible to work in a certificated position in an Idaho public school based on that certification for three (3) to eight (8) years.

(5) Instructional staff and pupil service staff who have been certified in another state and have not previously held certification in the state of Idaho shall be eligible for the advanced professional endorsement if they:

- (a) Have a written recommendation from the employing school district;
- (b) Have worked in a certificated position in a compact-member state other than Idaho pursuant to section 33-41014, Idaho Code; and
- (c) Would have been eligible to work in a certificated position in an Idaho public school based on that certification for nine (9) years or more.

(6) Instructional staff and pupil service staff who have worked in an accredited private school and maintained their instructional or pupil service staff certification may use their years of private school work experience to meet the years of experience requirements for the professional and advanced professional endorsement. Such staff may provide additional evidence demonstrating effective teaching that may be considered in exceptional cases for purposes of determining proficiency and student achievement requirements for professional and advanced professional eligibility criteria.

(7) The state board of education shall promulgate rules implementing the provisions of this section.

(78) For the purposes of this section:

- (a) "Certificate" means an Idaho instructional certificate, pupil service staff certificate, or out-of-state educator certificate that meets the requirements for reciprocity under rules promulgated by the state board of education;
- (b) In conjunction with the Idaho evaluation framework, "individualized professional learning plan" means an individualized professional development plan based on the Idaho framework for teaching evaluation and includes, at a minimum, identified interventions based on the individual's strengths and areas of needed growth, how the individual will set student achievement and growth goals, areas of identified professional development and mentoring that target continuous improvement in professional areas, future student achievement, and school building or district culture;
- (c) "Instructional staff" means those involved in the direct instruction of a student or group of students and who hold a certificate issued under section 33-1201, Idaho Code;

- (d) "Pupil service staff" means those who provide services to students but are not involved in direct instruction of those students and who hold a certificate issued under section 33-1201, Idaho Code; and
- (e) "School district" means a school district or a public charter school.

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

Approved April 13, 2021

CHAPTER 214
(H.B. No. 292)

AN ACT

RELATING TO ELECTRICAL CONTRACTORS AND JOURNEYMEN; AMENDING SECTION 54-1016, IDAHO CODE, TO PROVIDE CERTAIN EXEMPTIONS, TO PROVIDE FOR PREEMPTION OF LOCAL JURISDICTIONS AND THE STATE FIRE MARSHAL FOR CERTAIN EXEMPTIONS, 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 54-1016, Idaho Code, be, and the same is hereby amended to read as follows:

54-1016. EXEMPTIONS. (1) Nothing in this chapter shall be deemed to apply to:

- (a) Any regulated utility, telephone company, rural telephone cooperative or municipal communications utility, or its employees, in the installation or maintenance of communication circuits, wires and apparatus by or for such entities or their communications service customers;
- (b) Any electrical public utility, or its employees, in the installation and maintenance of electrical wiring, circuits, apparatus and equipment by or for such public utility, or comprising a part of its plants, lines or system;
- (c) Modular buildings as defined in section 39-4301, Idaho Code, that are constructed in the state of Idaho for installation on building sites outside the state; provided however, that no modular building shall be installed on a building site in the state of Idaho until it has been approved and bears the insignia of approval of the division as being in compliance with the requirements set forth in section 39-4304, Idaho Code.

(2) The licensing provisions of this chapter shall not apply to:

- (a) Any property owner performing noncommercial electrical work in the owner's primary or secondary residence, or associated outbuildings or land associated with the entire property on which those buildings sit, except that homeowner installations of renewable power generation connected to the community power grid shall be subject to a ~~pre-plan~~ preplan review in accordance with local jurisdictions' policies and procedures prior to the purchase of a permit;
- (b) Any person regularly employed as a maintenance electrician performing electrical maintenance work on the premises owned and operated by his employer, provided that electrical work is limited to maintenance and replacement of electrical fixtures, electrical conductors,

electrical equipment and electrical apparatus on a like-for-like basis;

(c) Any telephone company, rural telephone cooperative, or municipal communications utility, its employees, its subsidiaries, and employees of the subsidiaries performing work on customer-owned facilities under the exclusive control of the telephone company, rural telephone cooperative, or municipal communications utility;

(d) Any telephone company, rural telephone cooperative, or municipal communications utility, its employees, its subsidiaries, and employees of the subsidiaries performing repair work on customer-owned facilities at the request of the customer;

(e) Any electrical public utility, rural electrical cooperative, municipal power utility, its employees, its subsidiaries, and employees of the subsidiaries performing work on customer-owned facilities under the exclusive control of the electrical public utility, rural electrical cooperative, or municipal power utility; and

(f) Any electrical public utility, rural electrical cooperative, municipal power utility, its employees, its subsidiaries, and employees of the subsidiaries performing emergency repair work on customer-owned facilities at the request of the customer.

(g) A fire department employee who is acting in his official capacity as a representative of his agency when he is replacing, maintaining, or repairing a hard-wired smoke or carbon monoxide alarm at the request of a homeowner in one (1) or two (2) family dwelling unit, provided that such fire department employee has received annual training regarding electrical safety and installation of the devices identified in this paragraph.

(h) A limited electrical contractor, limited electrical installer, or employee of a company holding a limited electrical contractor license who is replacing or installing a fire alarm communication device (DACT). A person provided for in this paragraph shall obtain a permit if required by the authority having jurisdiction but must not be required to submit design plans. The fire alarm communication device (DACT) may be inspected if required by the authority having jurisdiction after replacement of the fire alarm communication device (DACT). The fee for a permit shall not exceed one hundred twenty-five dollars (\$125).

(3) The licensing provisions of this chapter shall not apply to individuals licensed pursuant to chapter 50, title 54, Idaho Code, or certified pursuant to chapter 26, title 54, Idaho Code, as follows:

(a) Individuals holding a current heating, ventilation and air conditioning (HVAC) license or a current plumbing certification may install electrical circuitry and make connections from the disconnecting means to a water heater as long as the disconnect is in sight from the unit and the circuit from the disconnecting means to the water heater is no more than fifty (50) feet long.

(b) Individuals holding a current HVAC license may install:

(i) Electrical space heaters with no attached ductwork;

(ii) Electrical connections to HVAC equipment from the disconnecting means to the unit as long as the disconnect is in sight from the unit and the circuit from the disconnecting means to the HVAC equipment is no more than fifty (50) feet long; and

(iii) Ventilating fans, except ducted range hoods in residences.

(c) HVAC licensees may install control wiring of twenty-four (24) volts or less for HVAC equipment of five (5) tons or less in capacity. Plumbing certificate holders are not authorized to install control wiring in HVAC equipment, regardless of voltage.

(d) Individuals holding a current limited energy electrical license may install electrical circuitry and make connections from utilization equipment installed under the restricted category of the limited electrical installer license to outlets, as long as those outlets are in sight from such utilization equipment and not more than fifty (50) feet from such utilization equipment. Outlets shall be installed by others.

(4) To the extent that a plumbing or HVAC installation permit issued by the Idaho division of building safety includes any part of an electrical installation, the permit issued and inspection performed shall be sufficient to satisfy the permitting and inspecting requirements of this chapter if all required permit fees have been paid.

(5) Approval and certification requirements of product and equipment as set forth in this chapter and in the adopted edition of the national electrical code do not apply to industrial machinery unless the board has made a determination that such product, machine or classes of products and machines present an undue hazard to life and property.

(6) Apprentice registration requirements shall not apply to high school students enrolled in an educational program recognized by the board in which the performance of electrical installation is a formal component of the program. The exemption is limited to students performing residential installations as part of such program under the constant on-the-job supervision of a licensed journeyman electrician, and a permit for the work is obtained from the authority having jurisdiction. Work hours performed by such students shall not apply toward apprentice work requirements.

(7) Neither local jurisdictions nor the state fire marshal shall have the authority to amend the exemptions provided for in this section or to adopt any ordinance, law, or rule in conflict with the provisions of this section.

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

Approved April 13, 2021

CHAPTER 215
(H.B. No. 324)

AN ACT

RELATING TO THE APPROPRIATION TO THE ENDOWMENT FUND INVESTMENT BOARD FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE ENDOWMENT FUND INVESTMENT BOARD FOR FISCAL YEAR 2022; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING A CONTINUOUS APPROPRIATION FOR CERTAIN COSTS; AND PROVIDING REQUIREMENTS FOR THE TRANSFER OF MONEYS FROM EARNINGS RESERVE FUNDS TO 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 according to the designated expense classes from the listed funds for the period July 1, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Miscellaneous Revenue				
Fund	\$70,000	\$13,500		\$83,500
Endowment Earnings Administrative				
Fund	<u>537,900</u>	<u>165,400</u>	<u>\$2,000</u>	<u>705,300</u>
TOTAL	\$607,900	\$178,900	\$2,000	\$788,800

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Endowment Fund Investment Board is authorized no more than four (4.00) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. CONTINUOUS APPROPRIATION. The Endowment Fund Investment Board is hereby granted continuous appropriation authority for consulting fees, custodial fees, investment manager fees, and other portfolio-related external costs for the period July 1, 2021, through June 30, 2022.

SECTION 4. TRANSFERS FROM EARNINGS RESERVE FUNDS. For fiscal year 2022, it is hereby appropriated and the Endowment Fund Investment Board shall transfer \$88,076,500 as follows: \$54,798,000 from the Public School Earnings Reserve Fund to the Public School Income Fund; \$1,660,000 from the Agricultural College Earnings Reserve Fund to the Agricultural College Income Fund; \$6,179,000 from the Charitable Institutions Earnings Reserve Fund to the Charitable Institutions Income Fund; \$5,487,500 from the Normal School Earnings Reserve Fund to the Normal School Income Fund; \$2,689,500 from the Penitentiary Earnings Reserve Fund to the Penitentiary Income Fund; \$5,735,500 from the Scientific School Earnings Reserve Fund to the Scientific School Income Fund; \$6,425,000 from the Mental Hospital Earnings Reserve Fund to the Mental Hospital Income Fund; and \$5,102,000 from the University Earnings Reserve Fund to the University Income Fund.

Approved April 13, 2021

CHAPTER 216
(H.B. No. 337)

AN ACT

RELATING TO THE APPROPRIATION TO THE IDAHO STATE POLICE FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE IDAHO STATE POLICE FOR FISCAL YEAR 2022; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING REAPPROPRIATION AUTHORITY; AND APPROPRIATING AND TRANSFERRING MONEYS FROM THE GENERAL FUND TO THE PEACE OFFICERS TRAINING FUND.

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, 2021, through June 30, 2022:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. BRAND INSPECTION:					
FROM:					
State Brand Board					
Fund	\$2,745,800	\$506,500	\$187,000		\$3,439,300
II. DIVISION OF IDAHO STATE POLICE:					
A. DIRECTOR'S OFFICE:					
FROM:					
General					
Fund	\$2,249,400	\$220,000			\$2,469,400
Idaho Law Enforcement (Project Choice)					
Fund	151,700	1,400			153,100
Miscellaneous Revenue					
Fund		73,000			73,000
Federal Grant					
Fund	<u>68,600</u>	<u>18,100</u>			<u>86,700</u>
TOTAL	\$2,469,700	\$312,500			\$2,782,200
B. EXECUTIVE PROTECTION:					
FROM:					
General					
Fund	\$483,100	\$96,600			\$579,700
Idaho Law Enforcement (Project Choice)					
Fund	77,300	1,200			78,500
Miscellaneous Revenue					
Fund	<u>94,700</u>	<u>7,000</u>			<u>101,700</u>
TOTAL	\$655,100	\$104,800			\$759,900
C. INVESTIGATIONS:					
FROM:					
General					
Fund	\$7,259,600	\$809,000			\$8,068,600
Idaho Law Enforcement (Project Choice)					
Fund	1,077,500	13,200			1,090,700
Drug & DWUI Enforcement Donation					
Fund	208,600	588,800	\$24,000		821,400
Federal Grant					
Fund	<u>299,600</u>	<u>660,100</u>	<u>0</u>	<u>\$210,000</u>	<u>1,169,700</u>
TOTAL	\$8,845,300	\$2,071,100	\$24,000	\$210,000	\$11,150,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
D. PATROL:					
FROM:					
General					
Fund	\$11,110,400	\$2,393,100	\$803,900		\$14,307,400
Idaho Law Enforcement					
Fund	13,789,000	2,602,800	714,000		17,105,800
Idaho Law Enforcement (Project Choice)					
Fund	3,473,500	48,400			3,521,900
Hazardous Materials/Waste Enforcement					
Fund	473,100	82,400	71,600	\$67,800	694,900
Miscellaneous Revenue					
Fund	698,800	79,000			777,800
Federal COVID-19 Relief					
Fund	358,900	30,000		3,521,100	3,910,000
Federal Grant					
Fund	<u>3,265,400</u>	<u>1,081,200</u>	<u>153,400</u>	<u>2,497,600</u>	<u>6,997,600</u>
TOTAL	\$33,169,100	\$6,316,900	\$1,742,900	\$6,086,500	\$47,315,400
E. LAW ENFORCEMENT PROGRAMS:					
FROM:					
General					
Fund	\$241,100	\$226,100			\$467,200
Alcohol Beverage Control					
Fund	1,329,200	459,700	\$4,600		1,793,500
Idaho Law Enforcement (Project Choice)					
Fund	205,900	2,600			208,500
Miscellaneous Revenue					
Fund		12,800			12,800
Federal Grant					
Fund	<u>75,000</u>	<u>10,000</u>	<u>0</u>		<u>85,000</u>
TOTAL	\$1,851,200	\$711,200	\$4,600		\$2,567,000
F. SUPPORT SERVICES:					
FROM:					
General					
Fund	\$1,955,700	\$1,210,100			\$3,165,800
Idaho Law Enforcement (Project Choice)					
Fund	61,600	2,300			63,900
Idaho Law Enforcement Telecommunications					
Fund	711,000	1,001,000			1,712,000
Miscellaneous Revenue					
Fund	1,493,100	1,792,900	\$7,200		3,293,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant					
Fund	<u>0</u>	<u>35,800</u>	<u>0</u>		<u>35,800</u>
TOTAL	\$4,221,400	\$4,042,100	\$7,200		\$8,270,700
G. FORENSIC SERVICES:					
FROM:					
General					
Fund	\$4,410,500	\$856,700			\$5,267,200
Idaho Law Enforcement (Project Choice)					
Fund	446,300	8,100			454,400
Drug & DWUI Enforcement Donation					
Fund		499,200	\$369,800		869,000
Miscellaneous Revenue					
Fund	90,200	131,000			221,200
Federal Grant					
Fund	<u>226,500</u>	<u>769,400</u>	<u>0</u>		<u>995,900</u>
TOTAL	\$5,173,500	\$2,264,400	\$369,800		\$7,807,700
DIVISION TOTAL	\$56,385,300	\$15,823,000	\$2,148,500	\$6,296,500	\$80,653,300
III. POST ACADEMY:					
A. PEACE OFFICER STANDARDS AND TRAINING ACADEMY:					
FROM:					
Idaho Law Enforcement (Project Choice)					
Fund	\$44,200	\$2,000			\$46,200
Peace Officers Training					
Fund	2,466,500	1,856,600	\$67,600	\$155,900	4,546,600
Miscellaneous Revenue					
Fund		29,000			29,000
Federal Grant					
Fund	<u>37,300</u>	<u>221,200</u>	<u>0</u>	<u>0</u>	<u>258,500</u>
TOTAL	\$2,548,000	\$2,108,800	\$67,600	\$155,900	\$4,880,300
IV. RACING COMMISSION:					
FROM:					
Idaho State Racing Commission					
Fund	\$254,200	\$144,500			\$398,700
Pari-Mutuel Distribution					
Fund	<u>0</u>	<u>0</u>		<u>\$30,000</u>	<u>30,000</u>
TOTAL	\$254,200	\$144,500		\$30,000	\$428,700
GRAND TOTAL	\$61,933,300	\$18,582,800	\$2,403,100	\$6,482,400	\$89,401,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Idaho State Police is authorized no more than six hundred sixteen and one-tenth (616.10) full-time equivalent positions at any point during the period July 1, 2021, through June 30, 2022, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the Idaho State Police any unexpended and unencumbered balances appropriated to the Idaho State Police from the General Fund for a residential unit in Driggs, Idaho, rifles with suppressors, and cold-weather jackets for fiscal year 2021, in an amount not to exceed \$742,500, to be used for non-recurring expenditures related to a residential unit in Driggs, Idaho, rifles with suppressors, and cold-weather jackets for the period July 1, 2021, through June 30, 2022. The Office of the State Controller shall confirm the reappropriation amount, by fund, expense class, and program, with the Legislative Services Office prior to processing the reappropriation authorized herein.

SECTION 4. CASH TRANSFER. There is hereby appropriated and the Office of the State Controller shall transfer \$400,000 from the General Fund to the Peace Officers Training Fund on July 1, 2021, or as soon thereafter as practicable for the period July 1, 2021, through June 30, 2022.

Approved April 13, 2021

CHAPTER 217
(S.B. No. 1042, As Amended)

AN ACT

RELATING TO PUBLIC CONTRACTS; AMENDING SECTION 67-2320, IDAHO CODE, TO REVISE PROVISIONS REGARDING CERTAIN PROFESSIONAL SERVICE CONTRACTS.

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

SECTION 1. That Section 67-2320, Idaho Code, be, and the same is hereby amended to read as follows:

67-2320. PROFESSIONAL SERVICE CONTRACTS WITH DESIGN PROFESSIONALS, CONSTRUCTION MANAGERS, AND PROFESSIONAL LAND SURVEYORS. (1) Notwithstanding any other provision of law to the contrary, it shall be the policy of this state that all public agencies and political subdivisions of the state of Idaho and their agents shall make selections for professional engineering, architectural, landscape architecture, construction management, and professional land surveying services, including services by persons licensed pursuant to chapters 3, 12, 30, and 45, title 54, Idaho Code, on the basis of qualifications and demonstrated competence and shall negotiate contracts or agreements for such services ~~on the basis of demonstrated competence and qualifications for the type of services required at fair and reasonable prices.~~

(2) In carrying out this policy, public agencies and political subdivisions of the state shall use the following minimum guidelines in securing contracts for engineering, architectural, landscape architecture, construction management, and land surveying services on projects for which the professional service fee is anticipated to exceed the total sum of ~~twenty-five~~ fifty thousand dollars (\$250,000), excluding professional services contracts previously awarded for an associated or phased project,

and for which the expenditure is otherwise exempt from the bidding process provided by law. To implement this policy, the public agency and political subdivisions shall:

(a) Provide a general description of the services being solicited and encourage persons or firms engaged in the services being solicited to submit statements of qualifications and past performance data;

(b) Establish and make available to the public a request for qualifications that includes the criteria and the procedures to be used for the measurable scoring, ranking, and selection of qualified persons or firms to perform such services;

(c) ~~Select the persons or firms whom the public agency or political subdivision determines to be best qualified to provide the required services, ranked in order of preference, After receiving responses to a request for qualifications, score and rank the responding persons or firms based on their qualifications and demonstrated competence pursuant to the public agency's or political subdivision's established criteria and procedures. The list of ranked respondents, including the scoring used to develop the ranking, shall be made available to the public. Some examples of selection criteria for consideration may include but are not limited to: a description of the firm, including location and longevity; past performance; project manager and key staff experience, education, and training; experience with similar projects; specific approach to project or assignment; proposed schedule, if applicable; and quality control procedures;~~

(d) Select for negotiation the persons or firms whom the public agency or political subdivision determines to be the highest-ranked (best qualified);

(de) Negotiate with the highest-ranked person or firm for a contract or an agreement to perform such services at a price determined by the public agency or political subdivision to be reasonable and fair to the public after considering the estimated value, the scope, the complexity, schedule, and the nature of the services required;

(ef) When unable to negotiate a satisfactory contract or agreement with the highest-ranked person or firm, formally terminate negotiations and undertake negotiations with the next highest-ranked person or firm, following the procedure prescribed in subsection (2) paragraph (de) of this subsection;

(fg) When unable to negotiate a satisfactory contract or agreement with any of the selected persons or firms, continue with the selection and negotiation process provided in this subsection until a contract or agreement is reached or cancel the procurement;

(gh) When a public agencies agency or political subdivisions solicits proposals a request for qualifications for engineering, architectural, landscape architecture, construction management, or land surveying services for which the professional service fee is anticipated to exceed the total sum of ~~twenty-five~~ fifty thousand dollars (\$250,000), they it shall publish public notice in the same manner as required for bidding procurement of public works construction projects. under section 67-2805(2), Idaho Code;

(hi) In fulfilling the requirements of subsections (2) paragraphs (a) through (2) (gh) of this subsection, a public agency or political subdivision may limit its selection establish and select from a list of ~~three (3)~~ two (2) or more persons or firms selected and preapproved for consideration by the public agency or political subdivision. In establishing a preapproved list, a public agency or political subdivision shall publish notice as set forth in subsection (2) paragraph (gh) of this subsection. When selecting from such list, no notice shall be required; and

~~(ij) In fulfilling the requirements of subsections (2) (a) through (2) (g) of this section, a public agency or political subdivision may request information concerning a person's or firm's rates, overhead and multipliers, if any, however such information shall not be used by the public agency or political subdivision for the purpose of ranking in order of preference as required in subsection (2) (c) of this section. Any list established under paragraph (i) of this subsection shall remain valid for a maximum of five (5) years and may be canceled by the public agency or political subdivision prior to the list's expiration if the public agency or political subdivision determines that cancellation would be in the public's interest.~~

(3) In securing contracts for engineering, architectural, landscape architecture, construction management, or land surveying services on projects for which the professional service fee is anticipated to be less than the total sum of ~~twenty-five~~ fifty thousand dollars (\$250,000), the public agency or political subdivision may use the guidelines set forth in ~~paragraphs (a) through (g) of~~ subsection (2) of this section or establish its own guidelines for selection based on demonstrated competence and qualifications to perform the type of services required, followed by negotiation of the fee at a price determined by the public agency or political subdivision to be fair and reasonable after considering the estimated value, the scope, the complexity, schedule, and the nature of services required.

(4) When a public agency or political subdivision of the state has previously awarded a professional services contract to a person or firm for an associated or phased project, the public agency or political subdivision may, at its discretion and in accordance with all provisions of section 59-1026, Idaho Code, negotiate an extended or new professional services contract with that person or firm.

(5) ~~(a)~~ For the purposes of this section:

~~(a)~~ "Public agency" shall mean the state of Idaho and any departments, commissions, boards, authorities, bureaus, universities, colleges, educational institutions, or other state agencies which that have been created by or pursuant to statute other than courts and their agencies and divisions, and the judicial council and the district magistrate's magistrates commission; and

~~(b)~~ For the purposes of this section, "Political subdivision" shall mean a county, city, airport, airport district, school district, health district, road district, cemetery district, community college district, hospital district, irrigation district, sewer district, fire protection district, any entity defined as a political subdivision under section 6-902, Idaho Code, or any other district or municipality of any nature whatsoever having the power to levy taxes or assessment, organized under any general or special law of this state. The enumeration of certain districts herein in this section shall not be construed to exclude other districts or municipalities from this definition.

Approved April 9, 2021

CHAPTER 218
(H.B. No. 187)

AN ACT

RELATING TO FISH AND GAME; AMENDING CHAPTER 1, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-126, IDAHO CODE, TO PROVIDE FOR MOTORIZED USE RESTRICTIONS IN RECREATIONAL ACCESS AGREEMENTS, TO PROVIDE FOR VIOLATIONS, TO PROVIDE FOR PENALTIES, AND TO PROVIDE APPLICABILITY.

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

SECTION 1. 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 36-126, Idaho Code, and to read as follows:

36-126. MOTORIZED USE RESTRICTIONS IN RECREATIONAL ACCESS AGREEMENTS. (1) In the event owners or lawful possessors of private land have restricted motorized vehicle operation on their land, the commission or department may, in entering into a lease or other cooperative agreement with such owners or possessors to allow public recreational access to such land, agree to enforce restrictions on motorized vehicle operation on such land, provided that:

(a) Notice of the existence of such restrictions is posted on the main traveled road or roads entering the area or areas to which the restrictions apply;

(b) Such notice includes:

- (i) "Travel restrictions apply," or wording of like meaning; and
- (ii) A website address and phone number for contacting the department; and

(c) A copy of a map or other description of the restrictions, including the effective date thereof, is made available to the public at the nearest department regional office and the department's website.

(2) In the event the commission or department agrees to enforce motorized vehicle restrictions as set forth in subsection (1) of this section, no person, unless specifically authorized by the owner or possessor of the land, may violate such restrictions, 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.

(3) (a) Any person who pleads guilty to or is found guilty of a violation of subsection (2) of this section for the first time in any five (5) year period is guilty of an infraction with a fine as set forth in section 36-1402, Idaho Code.

(b) Any person who pleads guilty to or is found guilty of a violation of subsection (2) of this section two (2) or more times within five (5) years is guilty of a misdemeanor and subject to penalties as set forth in section 36-1402, Idaho Code.

(4) Nothing in this section precludes the enforcement of other provisions of Idaho Code, such as those pertaining to trespass or damage to property.

(5) Nothing in this section allows the unlawful posting of signs or other information on or adjacent to highways as defined in section 40-109, Idaho Code.

Approved April 14, 2021

CHAPTER 219
(H.B. No. 235)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-409, IDAHO CODE, TO PROVIDE FOR SAGE GROUSE GAME TAGS; AMENDING SECTION 36-416, IDAHO CODE, TO REVISE PROVISIONS REGARDING FEES FOR SWAN, SAGE GROUSE, AND SHARPTAIL GROUSE; AND AMENDING SECTION 36-1401, IDAHO CODE, TO REMOVE CERTAIN VIOLATION PROVISIONS REGARDING SAGE GROUSE 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 in this chapter shall be eligible to receive a resident game tag to hunt and kill a moose, bighorn sheep, mountain goat, elk, deer, antelope, mountain lion, black bear, grizzly bear, wolf, sandhill crane, swan, sage grouse, 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 black 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 section 36-202(s), 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 in this chapter, shall be eligible to receive a nonresident tag to hunt and kill a moose, bighorn sheep, mountain goat, elk, deer, antelope, mountain lion, black bear, grizzly bear, wolf, sandhill crane, swan, sage grouse, 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) and (l), Idaho Code, shall be eligible to receive a junior mentored or disabled American veteran deer, elk, black 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, that the commission may promulgate rules to allow a nonresident deer or elk tag to be used to hunt and kill a black bear, a 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 that 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 that 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) Upland Game Bird Permit. The commission may, under rules as it may prescribe, issue an upland game bird permit that must be purchased by all persons over seventeen (17) years of age prior to hunting stocked upland game birds on department-owned lands, lands managed under agreement with the department, and private lands enrolled in a department-sponsored public access program with written permission of the land owner. The fee for the permit shall be as specified in section 36-416, Idaho Code.

(j) Black Bear Baiting Permit. The commission may, under rules as it may prescribe, issue a black bear baiting permit. Any person placing or using bait as may be allowed by rule for the purpose of attracting black bear must have in his possession a valid black 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.

SECTION 2. That Section 36-416, Idaho Code, be, and the same is hereby amended to read as follows:

36-416. SCHEDULE OF LICENSE FEES. As used in this section, "N/A" means "not available."

(a) Sport Licenses

License	Resident	Non-Resident
Combination License	\$ 37.00	\$ 262.25
Hunting License	14.00	N/A
Hunting License with 3 Day Fishing License	N/A	183.25
Fishing License	28.75	106.25
Sr. Combination License (65 and Older)	12.00	N/A
Sportsman's Pak License	135.00	N/A
Jr. Combination License	18.00	N/A
Jr. Hunting License	6.50	N/A
Jr. Mentored Hunting License with 3 Day Fishing License	N/A	90.00
Disabled American Veteran Hunting License with 3 Day Fishing License	N/A	30.00
Jr. Fishing License	14.25	22.00
Disabled Combination License	4.00	N/A
Disabled Fishing License	4.00	N/A
Military Furlough Combination License	18.75	N/A
Military Furlough Fishing License	18.75	N/A
Small Game Hunting License	N/A	140.00
3 Day Small Game Hunting License	N/A	70.00
Daily Fishing (1st-day) License	11.75	21.00
Consecutive Day Fishing License	6.00	7.00
3 Day Fishing with Salmon/Steelhead Permit	N/A	43.00
Nongame Hunting License	N/A	37.25

Jr. Trapping License	6.50	N/A
Trapping License	28.00	330.00
(b) Sport Tags		
Deer Tag	\$ 23.00	\$ 350.00
Controlled Hunt Deer Tag	23.00	350.00
Jr. or Sr. or Disabled American Veteran Deer Tag	10.75	N/A
Jr. Mentored Deer Tag	N/A	175.00
Disabled American Veteran Deer Tag	N/A	22.00
Elk A Tag	35.00	650.00
Elk B Tag	35.00	650.00
Controlled Hunt Elk Tag	35.00	650.00
Jr. or Sr. or Disabled American Veteran Elk Tag	17.00	N/A
Jr. Mentored Elk Tag	N/A	298.00
Disabled American Veteran Elk Tag	N/A	38.00
Black Bear Tag	12.00	230.00
Jr. or Sr. or Disabled American Veteran Black Bear Tag	6.00	N/A
Jr. Mentored Black Bear Tag	N/A	115.00
Disabled American Veteran Black Bear Tag	N/A	22.00
Turkey Tag	21.00	86.25
Jr. or Sr. or Disabled American Veteran Turkey Tag	10.75	N/A
Jr. Mentored Turkey Tag	N/A	43.00
Disabled American Veteran Turkey Tag	N/A	18.00
Mountain Lion Tag	12.00	202.75
Gray Wolf Tag	12.00	184.25
Pronghorn Antelope Tag	34.75	341.00
Moose Tag	198.00	2,625.00
Bighorn Sheep Tag	198.00	2,625.00
Mountain Goat Tag	198.00	2,625.00
Grizzly Bear Tag	198.00	2,625.00
Sandhill Crane Tag	21.00	72.50
Swan Tag	21.00	65.75 72.50
Sage Grouse Tag	21.00	72.50

For purposes of this subsection, disabled American veteran tags provided to nonresidents shall be limited to holders of a nonresident disabled American veterans hunting license.

(c) Sport Permits

Bear Baiting Permit	\$ 13.25	\$ 33.00
Hound Hunter Permit	13.25	300.00
Upland Game Bird Permit	27.00	55.00
Archery Permit	17.75	80.00
Disabled American Veteran Archery Permit	2.00	4.00
Muzzleloader Permit	17.75	80.00
Disabled American Veteran Muzzleloader Permit	2.00	4.00
Salmon Permit	13.50	26.50
Steelhead Permit	13.50	26.50
Federal Migratory Bird Harvest Info. Permit	1.00	3.25
Disabled Archery Permit	0.00	0.00
2-Pole Fishing Permit	13.25	15.25
Turkey Controlled Hunt Permit	6.00	6.75
Sage/Sharptail Grouse Permit	4.00	4.50 16.00
Disabled Hunt Motor Vehicle Permit	0.00	0.00

(d) Commercial Licenses and Permits

Raptor Captive Breeding Permit	\$78.75	\$ 104.00
Falconry Permit	78.75	N/A
Falconry Capture Permit	18.50	185.00
Peregrine Capture Permit	30.00	220.00
Taxidermist-Fur Buyer License 5-Year License	175.00	N/A
1-Year License	38.25	185.25
Shooting Preserve Permit	329.75	N/A
Commercial Wildlife Farm License	137.50	N/A
Commercial Fishing License	110.00	291.50
Wholesale Steelhead License	165.00	218.25
Retail Steelhead Trout Buyer's License	33.00	43.25

(e) Commercial Tags

Bobcat Tag	\$ 3.00	\$ 3.50
Otter Tag	3.00	3.50
Net Tag	55.00	72.50
Crayfish/Minnow Tag	1.25	3.50

(f) Miscellaneous-Other Licenses

Duplicate License	\$ 5.50	\$ 7.25
Shooting Preserve License	11.00	24.25
Captive Wolf License	32.00	N/A

(g) Miscellaneous-Other Tags

Duplicate Tag	\$ 5.50	\$ 7.25
Wild Bird Shooting Preserve Tag	5.50	7.25

(h) Miscellaneous-Other Permits-Points-Fees

Falconry In-State Transfer Permit	\$ 5.50	\$ N/A
Falconry Meet Permit	N/A	29.00
Rehab Permit	3.00	3.50
Educational Fishing Permit	0.00	0.00
Live Fish Importation Permit	3.00	3.50
Sport Dog and Falconry Training Permit	3.00	3.50
Wildlife Transport Permit	3.00	3.50
Scientific Collection Permit	50.00	55.00
Private Park Permit	21.75	29.00
Wildlife Import Permit	21.75	29.00
Wildlife Export Permit	11.00	14.75
Wildlife Release Permit	11.00	14.75
Captive Wildlife Permit	21.75	29.00
Fishing Tournament Permit	21.75	27.50
Dog Field Trial Permit	33.00	44.00
Live Fish Transport Permit	21.75	29.00
Controlled Hunt Application Fee Moose, Sheep, Goat, Grizzly Bear	15.00	44.00
Controlled Hunt Application Fee	4.50	16.25
Fee for Application for the Purchase of Controlled Hunt Bonus or Preference Points	4.50	4.50
Nursing Home Fishing Permit	33.00	N/A

SECTION 3. That Section 36-1401, Idaho Code, be, and the same is hereby amended to read as follows:

36-1401. VIOLATIONS. (a) Infractions. Any person who pleads guilty to or is found guilty of a violation of the following provisions of the fish and game code or the following rules or proclamations promulgated pursuant thereto is guilty of an infraction:

1. Statutes.

(A) Take, transport, use or have in possession bait fish as set forth in section 36-902(d), Idaho Code.

(B) Chumming as set forth in section 36-902(e), Idaho Code.

(C) Nonresident child under the age of fourteen (14) years fishing without a valid license and not accompanied by a valid license holder as set forth in section 36-401(a)2., Idaho Code.

(D) Use or cut a hole larger than ten (10) inches in the ice for ice fishing as set forth in section 36-1509(a), Idaho Code.

(E) Store fish without required tags/permits/statements as set forth in section 36-503, Idaho Code.

(F) Own, possess or harbor any dog found running loose and which is tracking, pursuing, harassing or attacking a big game animal as set forth in section 36-1101(b)7. (B), Idaho Code.

(G) Hunt migratory waterfowl without having in possession a signed federal migratory bird hunting stamp as set forth in section 36-1102(b)2., Idaho Code.

(H) Hunt migratory game birds without having in possession a license validated for the federal migratory bird harvest information program permit as set forth in section 36-409(k), Idaho Code.

(I) Trap in or on, or destroy or damage any muskrat house as provided in section 36-1103(c), Idaho Code.

(J) Hunt migratory game birds with a shotgun capable of holding more than three (3) shells as provided and incorporated in section 36-1102(b), Idaho Code.

(K) Fail to purchase a muzzleloader permit as set forth in section 36-409(f), Idaho Code.

(L) Fail to purchase an archery permit as set forth in section 36-409(e), Idaho Code.

2. Rules or Proclamations.

(A) Fish from a raft or boat with motor attached in waters where motors are prohibited.

(B) Fish with hooks larger than allowed in that water.

(C) Fish with barbed hooks in waters where prohibited.

(D) Exceed any established bag limit for fish by one (1) fish, except bag limits for anadromous fish, landlocked chinook salmon, kamloops rainbow trout, lake trout, or bull trout.

(E) Fish with more than the approved number of lines or hooks.

(F) Fail to leave head and/or tail on fish while fish are in possession or being transported.

(G) Snag or hook fish other than in the head and fail to release, excluding anadromous fish.

(H) Fail to attend fishing line and keep it under surveillance at all times.

(I) Fail to comply with mandatory check and report requirements.

(J) Fail to leave evidence of sex or species attached as required on game birds.

(K) Hunt or take migratory game birds or upland game birds with shot exceeding the allowable size.

(L) Fail to release, report or turn in nontarget trapped animals.

(M) Fail to complete required report on trapped furbearer.

(N) Fail to present required furbearer animal parts for inspection.

(O) Fail to attach identification tags to traps.

(P) Possess not more than one (1) undersized bass.

(Q) Park or camp in a restricted area, except length of stay violations.

(R) Fail to leave evidence of sex attached as required on game animals.

(S) Fail to purchase ~~sage grouse~~ or a sharp-tailed grouse hunting permit when hunting for ~~sage grouse~~ or sharp-tailed grouse anywhere within the state, except licensed shooting preserves.

(T) Fail to wear at least thirty-six (36) square inches of visible hunter orange above the waist when hunting locations where pheasants are stocked and the commission requires an upland game bird permit.

(U) Fail to comply with upland game bird shooting hours restrictions established by commission rule or proclamation.

(V) Public use restrictions. Activities prohibited unless specifically authorized by the commission or under lease, permit,

contract or agreement issued by the director, regional supervisor or other authorized agent:

- (i) Use watercraft on any waters that are posted against such use;
- (ii) Conduct dog field trials of any type during the period of October 1 through July 31. All dog field trials and dog training with the use of artificially propagated game birds between August 1 and September 30 will be under department permit as authorized by the director;
- (iii) Construct blinds, pits, platforms or tree stands where the soil is disturbed, trees are cut or altered, and artificial fasteners such as wire, rope or nails are used. All blinds shall be available to the public on a first-come, first-served basis. Portable manufactured blinds and tree stands are allowed but may not be left overnight;
- (iv) Shoot within, across or into posted safety zones;
- (v) Leave decoys unattended. Decoys cannot be put in place any earlier than two (2) hours prior to official shooting hours for waterfowl, and all decoys must be picked up and removed from the hunting site no later than two (2) hours after official shooting hours for waterfowl that particular day;
- (vi) Discharge any paintball guns;
- (vii) Place a geocache;
- (viii) Use for group events of more than fifteen (15) people;
- (ix) Use or transport any hay, straw or mulch that is not weed seed-free certified.

(W) Evidence of species. In seasons restricted to mule deer only or white-tailed deer only, if the head is removed, the fully-haired tail must be left naturally attached to the carcass.

(X) Continue to fish on Henry's lake after reaching limit.

(b) Misdemeanors. Any person who pleads guilty to, is found guilty of, or is convicted of a violation of the provisions of this title or rules or proclamations promulgated pursuant thereto, or orders of the commission, except where an offense is expressly declared to be an infraction or felony, shall be guilty of a misdemeanor.

(c) Felonies. Any person who pleads guilty to, is found guilty of, or is convicted of a violation of the following offenses shall be guilty of a felony:

1. Knowingly and intentionally selling or offering for sale or exchange, or purchasing or offering to purchase or exchange, any wildlife, or parts thereof, which has been unlawfully killed, taken or possessed.
2. Releasing into the wild, without a permit from the director, any of the following wildlife, whether native or exotic: ungulates, bears, wolves, large felines, swine, or peccaries.
3. Unlawfully killing, possessing, or wasting of any wildlife within a twelve (12) month period having a single or combined reimbursable damage assessment of more than one thousand dollars (\$1,000), as provided in section 36-1404, Idaho Code.
4. Conviction within ten (10) years of three (3) or more violations of the provisions of this title, penalties for which include either or both a mandatory license revocation or a reimbursable damage assessment.

CHAPTER 220
(H.B. No. 279)

AN ACT

RELATING TO THE COMMITTEE ON FEDERALISM; REPEALING SECTION 2, CHAPTER 315, LAWS OF 2019, RELATING TO THE SUNSET PROVISION FOR THE COMMITTEE ON FEDERALISM.

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

SECTION 1. That Section 2, Chapter 315, Laws of 2019, be, and the same is hereby repealed.

Approved April 14, 2021

CHAPTER 221
(S.B. No. 1024)

AN ACT

RELATING TO THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 36-2107, IDAHO CODE, TO REVISE PROVISIONS REGARDING POWERS AND DUTIES OF THE BOARD, TO REMOVE PROVISIONS REGARDING AN EXECUTIVE DIRECTOR, AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-205, IDAHO CODE, TO REMOVE PROVISIONS REGARDING AN EXECUTIVE DIRECTOR; AMENDING SECTION 54-912, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1207, IDAHO CODE, TO REMOVE REFERENCE TO AN EXECUTIVE DIRECTOR AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1404, IDAHO CODE, TO REMOVE PROVISIONS REGARDING EMPLOYEES OF THE BOARD AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1713, IDAHO CODE, TO REMOVE PROVISIONS REGARDING AN EXECUTIVE DIRECTOR, TO PROVIDE THAT THE ADMINISTRATOR OF THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES SHALL HAVE CERTAIN DUTIES, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1714, IDAHO CODE, TO REMOVE PROVISIONS REGARDING AN EXECUTIVE DIRECTOR AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1806, IDAHO CODE, TO REMOVE PROVISIONS REGARDING HIRING OR APPOINTING OF EMPLOYEES; AMENDING SECTION 54-2006, IDAHO CODE, TO REMOVE A PROVISION REGARDING AN EXECUTIVE DIRECTOR AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-2105, IDAHO CODE, TO REMOVE A REFERENCE TO AN EXECUTIVE DIRECTOR AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 36-408, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Section 36-2107, Idaho Code, be, and the same is hereby amended to read as follows:

36-2107. POWERS AND DUTIES OF BOARD. The board, ~~which may by written agreement authorize the bureau of occupational licenses as agent to act in its interest,~~ shall have the following duties and powers:

(a) To conduct examinations to ascertain the qualifications of applicants for outfitter's or guide's licenses, and to issue such licenses to qualified applicants, with such restrictions and limitations thereon as the board may find reasonable.

(b) To prescribe and establish rules of procedure to carry into effect the provisions of this chapter including, but not limited to, rules prescribing all requisite qualifications of training, experience, knowledge of rules of governmental bodies, condition and type of gear and equipment, and examinations to be given applicants, whether oral, written or demonstrative, or a combination thereof.

(c) To conduct hearings and proceedings to suspend, revoke or restrict the licenses of outfitters or guides, and to suspend, revoke or restrict said licenses for due cause in the manner hereinafter provided.

(d) The board is expressly vested with the power and the authority to enforce the provisions of this chapter, including obtaining injunctive relief, and to make and enforce any and all reasonable rules which shall by it be deemed necessary and which are not in conflict with the provisions of this chapter, for the express purpose of safeguarding the health, safety, welfare and freedom from injury or danger of those persons utilizing the services of outfitters and guides, and for the conservation of wildlife and range resources.

(e) The board shall have the power to cooperate with the federal and state government through its appropriate agency or instrumentality in matters of mutual concern regarding the business of outfitting and guiding in Idaho.

(f) The board shall have the power throughout the state of Idaho to request the attendance of witnesses and the production of such books, records and papers as may be required at any hearing before it. The board or its hearing officer may issue and serve subpoenas or subpoenas duces tecum in a manner consistent with chapter 52, title 67, Idaho Code, the rules of the office of the attorney general, and rules 45(e)(2) and 45(g) of the Idaho rules of civil procedure. Payment of fees or mileage for service of subpoenas or attendance of witnesses shall be paid by the board consistent with the provisions of chapter 52, title 67, Idaho Code, the rules of the office of the attorney general, and rule 45(e)(1) of the Idaho rules of civil procedure. Disobedience of a subpoena or subpoena duces tecum may be enforced by making application to the district court. Disobedience by a licensee of a subpoena or subpoena duces tecum issued by the board shall be deemed a violation of a board order.

~~(g) The board shall have the power to appoint an executive director to serve at the pleasure of the board. The executive director shall carry out such administrative duties as delegated to the director by the board. The board may, in its discretion, refuse, sustain or reverse, by majority vote, any action or decision of the executive director. The executive director shall be exempt from the provisions of chapter 53, title 67, Idaho Code, and shall receive a salary that is fixed by the board.~~

~~(h)~~ The board shall have the power to hire enforcement agents in order to conduct investigations and enforce the provisions of this chapter. All enforcement agents appointed by the board who are certified by the Idaho peace officer standards and training council shall have the power of peace officers limited to:

1. Enforcement of the provisions of this chapter.
2. Responding to express requests from other law enforcement agencies for aid and assistance in enforcing other laws. For purposes of this section, such a request from a law enforcement agency shall mean only a request as to a particular and singular violation or suspicion of violation of law and shall not constitute a continuous request for assistance outside the purview of enforcement of the provisions of this chapter.

~~(i)~~ The board shall designate the number of deer or elk tags allocated pursuant to section 36-408(4), Idaho Code, among the authorized outfitting operations within each capped or controlled zone, unit, or game management area in a fair and equitable manner designed to maximize the use of allocated tags by the outfitted public and promote predictability for individual out-

fitting operations that have previously used or ensured the use of the allocated tags designated to them. The board will report the number of tags designated to each outfitter operation back to the department of fish and game for distribution.

SECTION 2. That Section 54-205, Idaho Code, be, and the same is hereby amended to read as follows:

54-205. MEETINGS -- COMPENSATION -- ~~EXECUTIVE DIRECTOR~~. The board shall have its principal office in Ada county. Four (4) members of the board shall constitute a quorum, a majority of whom may act. The board shall meet no less than three (3) times each year; provided, however, special meetings may be called at any time during the year after notice to all members of the board of such special meetings. The board shall elect annually a chair, a vice chair, a secretary and a treasurer from its members. The offices of secretary and treasurer may be in the same person. The members of the board shall be compensated as provided by section 59-509(i), Idaho Code.

~~The board shall have the power to name an executive director who need not be a member of the board or a licensee and who may be a full-time or part-time employee of the state of Idaho. The board shall prescribe the duties of the executive director. Such duties shall include but are not limited to:~~

- ~~(1) Maintenance of a licensee registry;~~
- ~~(2) The preparation of all papers and records for the board; and~~
- ~~(3) Enforcement or investigative activities as directed by the board.~~

SECTION 3. That Section 54-912, Idaho Code, be, and the same is hereby amended to read as follows:

54-912. BOARD OF DENTISTRY -- POWERS AND DUTIES. The board shall have the following powers and duties:

(1) To ascertain the qualifications and fitness of applicants to practice dentistry, a dental specialty, dental therapy, or dental hygiene; to prepare, conduct and grade qualifying examinations; to require and accept passing results of written and clinical examinations from approved dental, dental therapy, and dental hygiene testing organizations; to issue in the name of the board a certificate of qualification to applicants found to be fit and qualified to practice dentistry, dental therapy, or dental hygiene.

(2) To prescribe rules for a fair and wholly impartial method of licensure and examination of applicants to practice dentistry, a dental specialty, dental therapy, or dental hygiene.

(3) To define by rule what shall constitute accepted and approved schools, colleges, institutions, universities or departments thereof for the teaching of dentistry, dental therapy, or dental hygiene and to determine, accept and approve those that comply therewith.

(4) To promulgate other rules required by law or necessary or desirable for its enforcement and administration; to define by rule the terms unprofessional conduct or practices injurious to the public as the terms are used in section 54-924, Idaho Code, to furnish applications, certificates, licenses and other necessary forms.

(5) To inspect or cause to be inspected the offices or operating rooms of all persons licensed under this chapter.

(6) (a) Upon its own motion or upon any complaint, to initiate and conduct investigations on all matters relating to the practice of dentistry, dental therapy, or dental hygiene and to conduct hearings or proceedings on its own or through its designated hearing officer, to revoke, suspend or otherwise condition certificates of qualification or licenses of persons practicing dentistry, dental therapy, or dental hygiene and, on such terms as the board shall deem appropriate, to revoke, suspend, or otherwise condition such licenses, provided such

hearings and proceedings shall be had in conformance with the provisions of chapter 52, title 67, Idaho Code. Final decisions of the board shall be subject to judicial review as provided in chapter 52, title 67, Idaho Code.

(b) 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, including the right to contest the emergency proceedings and appeal, under the applicable provisions of chapter 52, title 67, Idaho Code.

(7) The board, its designated hearing officer, or representative shall have power to administer oaths, the power to engage in discovery as provided in the Idaho rules of civil procedure and chapter 52, title 67, Idaho Code, including, but not limited to, the power to take depositions of witnesses within or without the state in the manner provided by law in civil cases, and shall have power throughout the state of Idaho to require the attendance of witnesses and the production of books, records and papers as it may desire at any hearing before it of any matter which it has authority to investigate, and for that purpose the board or its designated hearing officer may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records or papers, directed to the sheriff of any county of the state of Idaho, where the witness resides, or may be found, which shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. The fees and mileage of the witnesses shall be the same as that allowed in the district courts in criminal cases and shall be paid from the state board of dentistry fund in the same manner as other expenses of the board are paid. In any case of disobedience to, or neglect of, any subpoena or subpoena duces tecum served upon any person, or the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated, it shall be the duty of the district court, or any judge thereof, of any county in this state in which the disobedience, neglect or refusal occurs, upon application by the board to compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court or for refusal to testify. The licensed person accused in the proceedings shall have the same right of subpoena upon making application to the board.

~~(8) The board shall establish an office and may appoint an executive director and may employ other personnel, including attorneys and hearing officers, as may be necessary to assist the board. The board shall prescribe the duties of the executive director and these duties shall include the preparation of all papers and records under law for the board, and shall include enforcement activities as to the board may from time to time appear advisable, and the executive director shall act for and on behalf of the board in such manner as the board may authorize, keep records, property and equipment of the board and discharge other duties as the board may from time to time prescribe. The compensation of the executive director or other personnel shall be determined by the board and the executive director shall be bonded to the state in the time, form and manner prescribed in chapter 8, title 59, Idaho Code. To establish that the administrator of the division of occupational and professional licenses shall carry out the duties set forth in chapter 26, title 67, Idaho Code, and any other administrative duties on behalf of the board, including enforcement activities as the board may deem advisable.~~

(9) To report annually to the associations on the status of the state board of dentistry fund and furnish the associations a written report on all receipts and expenditures during the preceding year.

(10) Provide, by rule, for reasonable fees for administrative costs and assess costs reasonably and necessarily incurred in the enforcement of this chapter when a licensee has been found to be in violation of this chapter.

SECTION 4. That Section 54-1207, Idaho Code, be, and the same is hereby amended to read as follows:

54-1207. BOARD -- ORGANIZATION AND MEETINGS. The board shall hold at least one (1) regular meeting each year. The rules of the board may provide for additional regular meetings and for special meetings. Notice of all meetings shall be given as may be provided in the rules. The board shall annually elect a chairman, a ~~vice-chairman~~ vice chairman and a secretary, who shall be members of the board, ~~and they may provide for an assistant or executive director who need not be a member of the board or a licensee.~~ Four (4) members shall constitute a quorum.

SECTION 5. That Section 54-1404, Idaho Code, be, and the same is hereby amended to read as follows:

54-1404. BOARD OF NURSING -- POWERS AND DUTIES. The board shall have all powers and duties necessary and incident to regulation of nursing and to enforcement of this chapter including, but not limited to, the power and duty:

(1) To regulate individuals designated as certified medication assistants;

(2) To license qualified persons for practice of nursing in Idaho; to renew licenses; to limit, restrict, amend, deny, suspend or revoke licenses; and to accept the voluntary surrender of a license;

(3) To establish alternatives to formal disciplinary action, including a practice remediation program to educate and remediate nurses as a result of nursing practice deficiencies;

(4) To establish standards, criteria, conditions and requirements for licensure and to investigate and determine eligibility and qualifications for licensure, and to administer examinations for licensure;

(5) To establish standards of conduct and practice and to regulate the use of titles, abbreviations and designations for the practice of nursing;

(6) To establish standards, criteria, and requirements for curricula for nursing education programs and to evaluate, survey, review and approve nursing education programs subject to the provisions of section 54-1406, Idaho Code;

(7) To evaluate continuing competency of persons licensed pursuant to this chapter and to develop standards which will advance the competency of licensees in accordance with developing scientific understanding and methods relating to the practice of nursing;

(8) To receive and collect license and renewal fees assessed pursuant to this chapter and to assess, receive and collect additional reasonable fees for the administration of examinations, investigations and evaluations of applicants, issuance of temporary licenses, duplication and verification of records, surveying and evaluating nursing education programs, and administrative fines not to exceed one hundred dollars (\$100) for each count or separate offense of practicing nursing without current licensure, to be deposited in the state board of nursing account in the manner provided by this chapter;

~~(9) To employ personnel necessary to administer this chapter and rules promulgated pursuant to this chapter and perform such other duties as the board may require. Such personnel shall include an executive director who shall not be a member of the board;~~

~~(10) To maintain a record of board proceedings, annually report to the governor and maintain a public register of names and addresses of licensed nurses;~~

~~(11) To enter into interstate compacts, contracts or agreements to facilitate the practice and regulation of nursing in this state;~~

(121) To evaluate and develop, or to enter into contracts or agreements with others to evaluate and develop, the education, distribution and availability of the nursing workforce for the purpose of improving the delivery of quality health care;

(132) To make, adopt and publish rules pursuant to chapter 52, title 67, Idaho Code, as may be necessary or appropriate to carry out the provisions and purposes of this chapter.

SECTION 6. 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 chapter. 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.

(3) ~~The board shall employ a person 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. The administrator of the division of occupational and professional licenses shall carry out the duties set forth in chapter 26, title 67, Idaho Code, on behalf of the board.~~

SECTION 7. 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(p), Idaho Code, for each day on which the member is engaged in performance of the official duties of the board, and reimbursement reimbursed 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.~~

SECTION 8. That Section 54-1806, Idaho Code, be, and the same is hereby amended to read as follows:

54-1806. POWERS AND DUTIES. The board shall have the authority to:

(1) ~~Hire or appoint employees, including an executive director, investigators, attorneys, consultants and independent hearing examiners.~~

~~(2) Establish, pursuant to the administrative procedure act, rules for administration of this chapter, including rules establishing procedures for the receipt of complaints and for the investigation and disposition thereof. Such rules shall provide for notice to a person when board staff has undertaken to investigate that person and shall provide an opportunity for a person under investigation to meet with the committee or board staff before the initiation of formal disciplinary proceedings by the board.~~

(32) Conduct investigations and examinations and hold hearings as authorized by this section and by section 54-1806A, Idaho Code.

(43) The board shall have the power in any investigation or disciplinary proceeding pursuant to this chapter to administer oaths, take depositions of witnesses within or without the state in the manner consistent with rules adopted by the board pursuant to the administrative procedure act and, upon a determination that there is good cause, the board shall have power throughout the state of Idaho to require the attendance of such witnesses and the production of such books, records, and papers as it may deem appropriate for any investigation, deposition or hearing. For that purpose, the board may issue a subpoena for any witnesses or a subpoena duces tecum to compel the production of any books, records or papers, directed to the sheriff of any county of the state of Idaho, where such witness resides, or may be found, which shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. The fees and mileage of the witnesses shall be the same as that allowed in the district courts in criminal cases, which fees and mileage shall be paid from any funds in the state treasury in the same manner as other expenses of the board are paid. In any case of disobedience to, or neglect of, any subpoena or subpoena duces tecum served upon any person, or the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated, it shall be the duty of the district court of any county in this state in which such disobedience, neglect or refusal occurs, or any judge thereof, on application by the board to compel compliance with the subpoena by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or for refusal to testify therein. The licensed person accused in such formal contested case shall have the same right of subpoena upon making application to the board therefor.

(54) Seek injunctive relief prohibiting the unlawful practice of medicine.

(65) Make and enter into contracts.

(76) Operate, manage, superintend and control the licensure of physicians and physician assistants.

(87) Develop and submit a proposed budget setting forth the amount necessary to perform its functions.

(98) Perform such other duties as set forth in the laws of this state.

(109) Provide such other services and perform such other functions as are necessary to fulfill its responsibilities.

(110) Apply the provisions of section 12-117(5), Idaho Code, regarding the assessment of costs and fees incurred in the investigation and prosecution or defense of a licensee under this chapter.

(121) Prepare an annual report.

(132) Share with the department of labor personal identifying information of persons licensed under the provisions of this chapter necessary for the department of labor to identify workforce shortage areas in Idaho. The information provided to the department of labor concerning any person licensed under this chapter shall remain confidential and not subject to public disclosure, as required in section 74-106, Idaho Code.

SECTION 9. That Section 54-2006, Idaho Code, be, and the same is hereby amended to read as follows:

54-2006. QUALIFICATIONS OF COMMISSIONERS -- TERM AND ORGANIZATION. (1) Four (4) members of the commission shall be actively licensed Idaho-designated real estate brokers or associate brokers who have had at least five (5) years' active license experience as a designated broker or associate broker in the real estate business in Idaho. One (1) member shall be a member of the public from the state at large with an interest in the rights of consumers of real estate services.

(2) Each regular appointment, other than an appointment to fill an unexpired term, shall commence on July 1 of the year of appointment and be for

a term of four (4) years. Each commissioner shall hold office until a qualified successor is appointed. Upon the death, resignation or removal of any member of the commission, the governor shall appoint a qualified person to fill out the unexpired term.

(3) Each year, the commission shall call a meeting and elect a chair, a vice chair, and a commissioner to serve on the Idaho real estate education council. Thereafter, the chair may call meetings of the commission whenever he or she deems it advisable, but if the chair refuses to call a meeting upon written demand of a quorum of the commission, then such members may call the meeting.

~~(4) The commission may hire an executive director and such other assistants as it may require from either within or without the commission and shall pay these persons a compensation as determined by the commission. The position of executive director shall be a nonclassified state employee, and such person shall be an at-will employee of the commission.~~

SECTION 10. 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 and serve at the pleasure of 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. 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 governor may consider recommendations for appointment to the board from the state veterinary medical association, one (1) of the regional veterinary medical associations, and from any individual residing in this state. 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, by providing 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 committee on humane euthanasia 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 meetings law, chapter 2, title 74, 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, to review each application for compliance with the licensure and certification requirements, and to 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 the euthanizing of 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 as 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 director 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 that 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.

(~~lk~~) Establish a committee on humane euthanasia 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 committee.

(~~ml~~) 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.

(~~nm~~) 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.

SECTION 11. That Section 36-408, Idaho Code, be, and the same is hereby amended to read as follows:

36-408. COMMISSION'S AUTHORITY -- TAGS -- PERMITS -- NONRESIDENTS LIMITED -- OUTFITTERS SET-ASIDE. (1) Tags and Permits -- Method of Use. The commission is hereby authorized to prescribe the number and kind of wildlife that may be taken under authority of the several types of tags and permits provided for in this title and the manner in which said tags and permits shall be used and validated.

(2) Limit -- Licenses, Tags or Permits -- Controlled Hunts. The commission is hereby authorized to establish a limit annually as to the number of each kind and class of licenses, tags, or permits to be sold or issued and is further authorized to limit the number or prohibit entirely the participation by nonresidents in controlled hunts.

(3) Outfitted Hunter Tags Set-Aside. When the commission establishes a limit as to the number of nonresident deer tags and nonresident elk tags, it shall set aside, when setting big game seasons, in a statewide pool, a maximum of twenty-five percent (25%) of the nonresident deer tag and nonresident elk tag limit. These tags may be allocated to the outfitted hunters in capped hunts and controlled hunts and set aside for outfitted hunter use in general hunts.

Such outfitted allocated set-aside tags shall be separate from the tag numbers set for residents and nonresidents in each capped or controlled hunt, unit, or game management area. The set-aside tags shall be sold pursuant to commission rule, only to persons that have entered into a signed agreement for that year to utilize the services of an outfitter licensed pursuant to chapter 21, title 36, Idaho Code.

In order for a person to purchase any set-aside nonresident deer tag or nonresident elk tag, that person's outfitter must submit an application with the proper fees as required by the director. If any nonresident deer tags or nonresident elk tags set aside for use in general hunts pursuant to this subsection are unsold by July 15 of the year in which they were set aside, they may be sold by the department to the general public pursuant to commission rule. If any nonresident deer tags or nonresident elk tags set aside as general capped allocated tags pursuant to this subsection are unsold by July 31 of the year in which they were set aside, they may be sold by the department to the general public pursuant to commission rule.

The commission may promulgate all necessary rules to implement the provisions of this subsection.

(4) Deer and Elk Tag Allocation. When setting big game seasons, if the commission limits the number of deer or elk tags available for use in any game management area, unit, or zone, the commission may allocate by rule, where there are outfitted operations, a number of deer and elk tags from the outfitted hunter set-aside pool of tags for use by hunters that have entered into a signed agreement for that year to utilize the services of an outfitter licensed pursuant to chapter 21, title 36, Idaho Code.

In addition to rules promulgated by the commission regarding allocation, or pursuant to this section, in capped hunts the commission may allocate the number of outfitted hunter elk and deer tags based on the highest number within each of the last two (2) years of all elk or deer tags using the services of an outfitter in each capped hunt. Any additional tags above the original outfitted hunter tag quota may come from the nonresident outfitted hunter set-aside pool or the nonresident quota in the capped hunt, not to exceed fifty percent (50%) of the nonresident quota for each capped hunt. In capped hunts, when tag numbers change for all users, they will apply proportionally to all user groups.

In controlled hunts, the commission may allocate the number of outfitted hunter elk or deer tags based on a number compiled from each outfitter's highest year within the last two (2) years of all elk or deer tags using the services of an outfitter for each controlled hunt. Any additional tags above the original outfitted hunter tag quota may come from the nonresident outfitted hunter set-aside pool or the nonresident quota in the controlled hunt, not to exceed fifty percent (50%) of the nonresident quota for each controlled hunt.

Outfitted hunter tag use history will be provided through records from the sale of outfitted hunter tags compiled by the Idaho department of fish and game and verified use other than allocated tags recorded with the department by December 20 by outfitters. The department shall distribute the allocated outfitted tags through its point-of-sale machines.

Beginning December 1, 2020, all outfitted deer and elk tag use shall be verified in order to qualify for allocated outfitted hunter tag use history. Verification consists of the purchase of allocated tags from the Idaho department of fish and game or the use of an outfitter-provided agreement, including the tag number that is recorded with the department.

All big game tags used in allocated outfitted hunts must be recorded by outfitters with the department by December 20 each year. An administrative fee of five dollars (\$5.00) shall be assessed for each allocated outfitted big game tag sold or exchanged at a point-of-sale machine. An administrative fee of twenty dollars (\$20.00) shall be assessed for each big game tag submitted for verification as being outfitted.

The allocated tags shall be designated by the Idaho outfitters and guides licensing board to those authorized outfitting operations licensed for elk and deer hunting for the use by the outfitted hunter, pursuant to section 36-2107(ih), Idaho Code.

Those tags not qualified for allocated tag use history include emergency depredation, landowner appreciation program hunts, or meat packing without an outfitted allocated deer or elk tag.

The commission may promulgate all necessary rules to implement the provisions of this subsection.

(5) Special Game Tags. The commission is hereby authorized to issue two (2) special bighorn sheep tags per year.

(a) Auction bighorn sheep tag. One (1) special bighorn sheep tag shall be auctioned off by an incorporated nonprofit organization dedicated to wildlife conservation selected by the commission. The tag shall be issued by the department of fish and game to the highest eligible bidder. No more than five percent (5%) of all proceeds for the tag may be retained by the organization. The tag to be issued pursuant to this subsection shall be taken from the nonresident bighorn sheep tag quota.

The net proceeds shall be forwarded to the director for deposit in the fish and game expendable trust account and shall be used for bighorn sheep research and management purposes. Moneys raised pursuant to this subsection may not be used to transplant additional bighorn sheep into that portion of southwest Idaho south of the Snake river and west of U.S. highway no. 93, nor for litigation or environmental impact statements involving bighorn sheep. No transplants of bighorn sheep accomplished with moneys raised pursuant to this subsection shall occur in any area until hearings are conducted in the area. Provided however, that none of the proceeds generated from the auction of bighorn sheep tags pursuant to this paragraph be used to purchase or acquire private property or federally managed grazing permits, nor shall any proceeds generated be used for matching funds for the purchase of private property or the retirement or the acquisition of federally managed grazing permits.

(b) Lottery bighorn sheep tag. The commission is also authorized to issue one (1) special bighorn sheep tag, which will be disposed of by lottery. The lottery permit can be marketed by the department of fish and game or a nonprofit organization dedicated to wildlife conservation selected by the commission. The tag will be issued by the department of fish and game to an eligible person drawn from the lottery provided in this subsection. No more than twenty-five percent (25%) of gross revenue can be retained for administrative costs by the organization. All net proceeds for the tag disposed of by lottery pursuant to this subsection shall be remitted to the department and deposited in the fish and game expendable trust account. Moneys in the account from the lottery bighorn sheep tag shall be utilized by the department in solving problems between bighorn sheep and domestic sheep, solving problems between wildlife and domestic animals or improving relationships between sportsmen and private landowners.

(6) Issuance of Free Permit or Tag to Minor Children with Life-Threatening Medical Conditions. Notwithstanding any other provision of law, the commission may issue free big game permits or tags to minor children who have life-threatening medical conditions that have been certified eligible by a qualified organization. The commission may prescribe by rule the manner and conditions of issuing and using the permits or tags authorized under this subsection. For purposes of this subsection, a "qualified organization" means a nonprofit organization that is qualified under section 501(c) (3) of the Internal Revenue Code and that affords opportunities and experiences to minor children with life-threatening medical conditions.

(7) Issuance of Free Permit or Tag to Military Veterans with Disabilities. The commission may prescribe by rule the manner and conditions of using the permits or tags authorized under this subsection. Notwithstanding any other provision of law, the commission shall issue five (5) free big game permits or tags to disabled military veterans whose disability has been certified eligible by the Idaho division of veterans services. All veterans applying must be sponsored by a "qualified organization," which for purposes of this subsection means a governmental agency that assists veterans or a nonprofit organization that is qualified under section 501(c) (3), 501(c) (4) or 501(c) (19) of the Internal Revenue Code and that affords opportunities, experiences and assistance to disabled veterans. The Idaho division of veterans services shall screen all applicants to ensure only the most deserving disabled veterans shall be issued these permits or tags. A list of screened applicants shall be provided to the commission in priority order for issuance. The commission shall issue one (1) permit or tag each to the top two (2) candidates for a sponsored hunt as designated by the Idaho division of veterans services and the three (3) remaining permits or tags to candidates sponsored by a qualified organization as described in this subsection.

(8) Special Wolf Tags. The commission is hereby authorized to issue up to ten (10) special auction or lottery tags for hunting wolves. Special wolf tags will be auctioned off or made available through lottery by incorporated nonprofit organizations dedicated to wildlife conservation and selected by the director. No more than five percent (5%) of all proceeds for each tag may be retained by the nonprofit organization for administrative costs involved. Each wolf tag shall be issued by the department of fish and game and awarded to the highest eligible bidder or winner of a lottery. Each tag will be good for the harvest of one (1) wolf pursuant to commission rule. The proceeds from each tag will be sent to the director to be placed in the department general license fund.

(9) Special Big Game Auction Tags -- Governor's Wildlife Partnership Tags. The commission is hereby authorized to issue special big game auction tags hereafter named and referred to as "Governor's wildlife partnership tags" for hunting designated species on dates and in areas designated by the commission. To enhance and sustain the value of Idaho's wildlife, up to three (3) tags per species per year may be issued for deer, elk and pronghorn antelope, one (1) tag per year may be issued for moose, and one (1) tag per species per year may be issued for mountain goat and bighorn sheep. Each tag will be signed by the governor of Idaho prior to auction to the public and be available to either residents or nonresidents of Idaho. Governor's wildlife partnership tags issued for deer, elk, pronghorn antelope and moose pursuant to this subsection shall be taken from the nonresident controlled hunt programs for these species adopted by the fish and game commission. Governor's wildlife partnership tags issued for mountain goat and bighorn sheep shall be taken from the nonresident mountain goat and bighorn sheep quota. Governor's wildlife partnership tags shall be auctioned off by incorporated nonprofit organizations dedicated to wildlife conservation and selected by the director. No more than five percent (5%) of all proceeds from each tag sale may be retained by the nonprofit organization for administrative costs involved, including in the event a tag is redonated and reauctioned. Each tag shall be issued by the department of fish and game and awarded to the highest eligible bidder. Each tag shall be good for the harvest of one (1) big game animal pursuant to commission rule consistent with the provisions of this subsection. The proceeds from each tag shall be sent to the director to be allocated up to thirty percent (30%) for sportsmen access programs, such as access yes, and the balance for wildlife habitat projects, wildlife management projects to increase the quantity and quality of big game herds, and other research and management activities approved by the commission. Provided however, that none of the proceeds generated from the auctions pursuant to the provisions of this subsection shall be used to purchase or acquire private property or federally managed grazing permits, nor shall any proceeds generated be used for matching funds for the purchase of private property or the retirement or the acquisition of federally managed grazing permits. Moneys raised pursuant to this subsection may not be used to transplant additional bighorn sheep into that portion of southwest Idaho south of the Snake river and west of U.S. highway no. 93, nor for litigation or environmental impact statements involving bighorn sheep.

Approved April 14, 2021

CHAPTER 222
(S.B. No. 1026)

AN ACT

RELATING TO THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 36-2105, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 39-4106, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-4302, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-307, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-401, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-604, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-706, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-907, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-1006, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-1105, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-1203, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-1403, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-1503, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-1603, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1706, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-1805, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-1905, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2005, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-2105, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-2205, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-2304, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-2404, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-2605, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-2803, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-2908, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-3003, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-3105, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-3203, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-3307, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-3403, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-3714, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SEC-

TION 54-4006, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-4106, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-4204, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-4704, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-5004, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-5206, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-5309, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-5403, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-5503, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-5606, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 54-5806, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AND AMENDING SECTION 55-2203, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES.

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

SECTION 1. That Section 36-2105, Idaho Code, be, and the same is hereby amended to read as follows:

36-2105. CREATION OF IDAHO OUTFITTERS AND GUIDES LICENSING BOARD. There is hereby created in the ~~department of self-governing agencies~~ division of occupational and professional licenses the Idaho outfitters and guides licensing board, herein referred to as "the board," consisting of four (4) members appointed by the governor, and one (1) member appointed by the Idaho fish and game commission, as provided in section 36-2106, Idaho Code.

SECTION 2. That Section 39-4106, Idaho Code, be, and the same is hereby amended to read as follows:

39-4106. IDAHO BUILDING CODE BOARD CREATED -- MEMBERSHIP -- APPOINTMENT -- TERMS -- QUORUM -- COMPENSATION -- MEETINGS. (1) The Idaho building code board is established within the division of occupational and professional licenses as an appeals, code adoption, and rulemaking board, to be appointed by the governor, and shall consist of ten (10) members: one (1) member of the general public; one (1) local fire official; one (1) licensed engineer; one (1) licensed architect; two (2) local building officials, one (1) from a county and one (1) from a city; two (2) building contractors, one (1) residential contractor who is an active member of the Idaho building contractors association with construction knowledge based primarily on a work history of buildings regulated by the International Residential Code, and one (1) commercial contractor who is an active member of either the associated builders and contractors or the associated general contractors of America with construction knowledge based primarily on a work history of buildings regulated by the International Building Code; one (1) representative of the modular building industry; and one (1) individual with a disability from an organization that represents people with all types of disabilities. Board members shall be appointed for terms of four (4) years and until their successor has been appointed. Three (3) consecutive failures by a member to attend meetings of the board without reasonable cause shall constitute cause for removal of the member from the board by the governor. Whenever a vacancy occurs, the governor shall appoint a qualified person to fill the vacancy for the unexpired portion of the term.

(2) The members of the board shall, at their first regular meeting following the effective date of this chapter and every two (2) years thereafter, elect, by majority vote of the members of the board, a chairman who shall preside at meetings of the board. A majority of the currently appointed members of the board shall constitute a quorum.

(3) Each member of the board not otherwise compensated by public moneys shall be compensated as provided by section 59-509(n), Idaho Code, for each day spent in attendance at meetings of the board.

(4) The board shall meet for regular business sessions at the call of the administrator, chairman, or at the request of four (4) members of the board, provided that the board shall meet at least biannually.

SECTION 3. That Section 39-4302, Idaho Code, be, and the same is hereby amended to read as follows:

39-4302. FACTORY BUILT STRUCTURES ADVISORY BOARD. (1) The factory built structures advisory board is established in the division of building safety occupational and professional licenses to advise the administrator in the administration and enforcement of the provisions of this chapter and chapter 40, title 39, and chapters 21, 22 and 25, title 44, Idaho Code. The board shall consist of eight (8) members appointed by the governor. One (1) member shall represent a manufacturer of commercial modular buildings, one (1) member shall be a consumer who lives in a manufactured home, two (2) members shall be licensed as a retailer or installer of manufactured or mobile homes, one (1) member shall represent a manufacturer of manufactured homes, two (2) members shall be either a dealer or installer of modular buildings, and one (1) member shall be a consumer who uses or has used modular buildings. The board shall serve at the pleasure of the governor and shall serve the following terms commencing July 1, 2016: two (2) members shall be appointed for a term of one (1) year, three (3) members shall be appointed for a term of two (2) years, and three (3) members shall be appointed for a term of three (3) years. Thereafter board members shall be appointed for a term of three (3) years and shall serve at the pleasure of the governor. Whenever a vacancy occurs, the governor shall appoint a qualified person to fill the vacancy for the unexpired portion of the term. The members of the board shall be compensated as provided in section 59-509(n), Idaho Code, for each day spent in attendance at meetings of the board. A majority of members shall constitute a quorum, and a quorum at any meeting called by the administrator shall have full and complete power to act upon and resolve in the name of the board any matter, thing or question referred to it by the administrator, or which by reason of any provision of this chapter, it has the power to determine.

(2) The board shall, on the first day of each July or as soon thereafter as practicable, elect a chairman, vice-chairman and secretary from among its members, and these officers shall hold office until their successors are elected. As soon as the board has elected its officers, the secretary shall certify the results of the election to the administrator. The chairman shall preside at all meetings of the board and the secretary shall make a record of the proceedings which shall be preserved in the offices of the division of building safety occupational and professional licenses. If the chairman is absent from any meeting of the board, his duties shall be discharged by the vice-chairman. All members of the board present at a meeting shall be entitled to vote on any question, matter, or thing which properly comes before the board.

(3) The board shall have the authority to promulgate rules in accordance with chapter 52, title 67, Idaho Code, to implement the provisions of this chapter and chapter 40, title 39, and chapters 21, 22 and 25, title 44, Idaho Code.

SECTION 4. That Section 54-307, Idaho Code, be, and the same is hereby amended to read as follows:

54-307. BOARD -- ORGANIZATION AND MEETINGS. (1) There is hereby created in the ~~department of self-governing agencies~~ division of occupational and professional licenses a board of architectural examiners.

(2) The board shall consist of six (6) members, five (5) of whom shall be architects and shall have been residents of and lawfully practicing architects within the state of Idaho for a period of at least five (5) years directly preceding appointment, and one (1) of whom shall be a member of the public with an interest in the rights of the consumers of architectural services. At all times, the board shall have at least one (1) member who is engaged primarily in professional architectural education.

(3) The regular term of office of a member shall begin as of the first Monday immediately following the date of his appointment and shall continue for five (5) years thereafter and until his successor shall have been appointed and accepted his appointment. A member appointed to fill a vacancy occasioned otherwise than by expiration of a term shall serve the unexpired term of his predecessor. No members shall be appointed for a period exceeding two (2) consecutive terms. Any member who has served two (2) consecutive terms may be reappointed after a lapse of five (5) years from the termination date of his last term.

(4) Board members shall be appointed by the governor and shall serve at the pleasure of the governor.

(5) In the event of death, resignation, incapacity, disqualification or removal, a vacancy in membership shall be declared by the board and filled for the unexpired portion of the term in the same manner as the original appointment.

(6) The board shall, at least annually, hold a meeting and elect a chairman. The board may hold additional meetings at the call of the chairman or at the request of any two (2) members of the board.

(7) A majority of the members of the board shall constitute a quorum.

(8) Members of the board shall receive an honorarium and be reimbursed for expenses as provided in section 59-509(p), Idaho Code.

SECTION 5. That Section 54-401, Idaho Code, be, and the same is hereby amended to read as follows:

54-401. STATE ATHLETIC COMMISSION. There is hereby created and established the state athletic commission in the ~~department of self-governing agencies~~ division of occupational and professional licenses. The state athletic commission shall be administered by the state athletic commissioner who shall be appointed by the governor subject to confirmation by the senate and shall be subject to removal at the pleasure of the governor. The state athletic commissioner shall be appointed for a term of four (4) years and shall receive an honorarium not to exceed that provided in section 59-509(p), Idaho Code.

SECTION 6. That Section 54-604, Idaho Code, be, and the same is hereby amended to read as follows:

54-604. ESTABLISHMENT OF STATE BOARD OF PODIATRY. (1) There is hereby established in the ~~department of self-governing agencies~~ division of occupational and professional licenses a state board of podiatry to be composed of five (5) members to be appointed by the governor in the manner hereinafter set forth. Four (4) members shall be podiatrists, duly licensed under the laws of the state of Idaho, and who have been continuously engaged in the practice of podiatry for a period of not less than five (5) years prior to their appointment. The fifth member of the board shall be a layman, and res-

ident of the state of Idaho for a period of not less than five (5) years prior to his appointment. All appointments to the board shall be made for terms of four (4) years, and all board members shall serve at the pleasure of the governor. Vacancies on the board, occurring for any reason, shall be filled by the governor. The governor in making appointments shall give consideration to but shall not be bound by the recommendations received from the Idaho podiatric medical association.

(2) The board shall select a chairman and a vice chairman annually. The chairman shall be a podiatrist. The board shall meet at least annually for the purpose of transacting any business which may lawfully come before it. The board may meet in special session at the call of the chairman, or at the call of not less than two-thirds (2/3) of the membership of the board. The members of the board shall each be compensated as provided by section 59-509(m), Idaho Code.

(3) Examinations of applicants may be conducted by the board or by designated representatives of the board.

(4) A quorum will consist of at least three (3) members of the board. The chairman, or person acting as such, will vote only in the case of a tie.

SECTION 7. That Section 54-706, Idaho Code, be, and the same is hereby amended to read as follows:

54-706. STATE BOARD OF CHIROPRACTIC PHYSICIANS CREATED. (1) There is hereby established in the ~~department of self-governing agencies~~ division of occupational and professional licenses a state board of chiropractic physicians to be composed of five (5) members. The members of the board shall be appointed by the governor for a term of three (3) years. The governor may consider recommendations for appointment to the board from any chiropractic association or any individual residing in this state. No person may be appointed for more than two (2) consecutive terms.

(2) The board shall consist of four (4) physicians who are licensed to practice chiropractic in this state, and each of whom shall have been engaged continuously in the practice of chiropractic within the state of Idaho for a period of not less than three (3) years prior to his appointment.

(3) The governor shall appoint a representative of the public as one (1) member of the board who shall be designated as the public member. The public member of the board shall be a resident of the state of Idaho who has attained the age of twenty-one (21) years, and shall not be nor shall ever have been a physician, the spouse of a physician, a person licensed under the laws of any state to practice a healing art, or a person who has or has had a material financial interest in providing health care services.

(4) The board shall elect a chairman from its membership. The members of the board, except for state employees, shall be compensated as provided by section 59-509(n), Idaho Code. Three (3) members of the board shall constitute a quorum, and the board may act by virtue of a majority vote of members present at a meeting.

(5) The members of the board serve at the pleasure of the governor.

SECTION 8. That Section 54-907, Idaho Code, be, and the same is hereby amended to read as follows:

54-907. STATE BOARD OF DENTISTRY ESTABLISHED. There is hereby established in the ~~department of self-governing agencies~~ division of occupational and professional licenses a state board of dentistry to be composed of eight (8) members, five (5) of whom shall be dentists, two (2) of whom shall be dental hygienists, and one (1) of whom shall be a member of the public with an interest in the rights of consumers of dental services. Board members shall be appointed by the governor and shall serve at the pleasure of the governor. Upon appointment by the governor, the term of office of a

member of the board shall commence on the first Monday of February following his appointment and shall continue for five (5) years, or until his successor has been named, whichever is later. A vacancy in membership of the board shall occur whenever the regular term of a member expires or when a member dies, resigns or is removed from office by the governor. Appointments to fill a vacancy occurring for some reason other than expiration of term of office shall be made for the unexpired term which is being filled.

SECTION 9. That Section 54-1006, Idaho Code, be, and the same is hereby amended to read as follows:

54-1006. IDAHO ELECTRICAL BOARD. (1) The Idaho electrical board, hereinafter known as the board, is hereby created and made a part of the division of building safety occupational and professional licenses. It shall be the responsibility and duty of the administrator of the division of building safety occupational and professional licenses to administer and enforce the provisions of this chapter, and to serve as secretary to the Idaho electrical board.

(2) The board shall consist of nine (9) members to be appointed by the governor and who shall serve at the pleasure of the governor. Two (2) members shall be licensed journeymen or master electricians; two (2) members shall be employees or officers of licensed electrical contractors; one (1) member shall be a licensed limited electrical installer or limited electrical contractor; one (1) member shall be an employee or officer of an electrical power provider; one (1) member shall be an employee or officer of a manufacturing plant or other large power user; one (1) member shall be an employee or director of a manufacturer or distributor of electrical supplies or materials; and one (1) member shall be from the public at large not directly associated with the electrical industry. Board members shall be appointed for a term of four (4) years. Members of the board shall hold office until expiration of the term to which the member was appointed and until his successor has been duly appointed and qualified. Whenever a vacancy occurs, the governor shall appoint a qualified person to fill the vacancy for the unexpired portion of the term.

(3) All members of the board shall be citizens of the United States, residents of this state for not less than two (2) years and shall be qualified by experience, knowledge and integrity in formulating rules for examinations, in passing on the fitness and qualifications of applicants for electrical contractor and journeyman electrician licenses and in establishing standards for electrical products to be used in electrical installations coming under the provisions of this chapter.

(4) The members of the board shall, every two (2) years, elect by majority vote of the members of the board a chairman who shall preside at meetings of the board and a vice chairman who shall preside at any board meeting in the event the chairman is not present. A majority of the members of the board shall constitute a quorum.

(5) The board is authorized and directed to prescribe and amend rules consistent with this chapter for the administration of this chapter, and to effectuate the purpose thereof, and for the examination and licensing of electrical contractors, journeyman electricians, master electricians, provisional journeyman electricians, limited electrical installers, limited electrical contractors, limited electrical installer trainees and apprentice electricians. The board shall also establish the categories for limited electrical installers and limited electrical contractor licensing and the fees to be charged for permits and inspections of electrical systems. The board shall establish by administrative rule the fines to be paid for citations issued and shall hear appeals regarding the imposition of civil penalties for violations of this chapter and the rules of the Idaho electrical board. The board is authorized to affirm, reject, decrease or increase

the penalty imposed by the administrator. However, in no case shall the penalty exceed one thousand dollars (\$1,000) for each offense.

(6) Each member of the board not otherwise compensated by public moneys shall be compensated as provided by section 59-509(n), Idaho Code.

SECTION 10. That Section 54-1105, Idaho Code, be, and the same is hereby amended to read as follows:

54-1105. BOARD OF MORTICIANS. (1) There is hereby established in the ~~department of self-governing agencies~~ division of occupational and professional licenses a state board of morticians to be composed of three (3) members who shall be appointed by the governor and who shall serve at the pleasure of the governor in the manner hereinafter set forth. Two (2) members of the board shall be duly licensed morticians under the laws of the state of Idaho. Each shall be a resident of the state of Idaho for a period of at least five (5) years next preceding his appointment, during which time he shall have been continuously engaged in the practice as a mortician as defined in this chapter. One (1) member of the board shall be a member of the public with an interest in the rights of the consumers of mortuary services. No person shall be eligible for appointment to the board of morticians who is financially interested, directly or indirectly, in any embalming college, wholesale funeral supply business, or casket manufacturing business.

(2) The governor may consider recommendations for members of the board from the Idaho funeral service association, other statewide organization or association of licensed morticians whose membership is composed of a majority of all licensed morticians of the state or from any individual residing in this state.

(3) All members of the board of morticians shall be appointed to serve for a term of three (3) years, to expire on May 1 of the year of termination of their term, and until their successors have been appointed and qualified; provided however, the governor is hereby granted the power to alter the term of office of the members of the board first appointed hereunder so that the term of office of not more than one (1) member of the board shall terminate in any one (1) year. In case of a vacancy occurring on said board of morticians, the governor shall appoint a qualified member for the remainder of the unexpired term of the vacant office.

(4) The board shall meet, not less than annually, to elect a chairman and vice chairman and take official board action on pending matters by majority vote of all the members of the board of morticians, and in doing so a majority of the members of said board shall at all times constitute a quorum. Notice of any meeting shall be given by the chairman to all members of the board at least ten (10) days in advance of each meeting unless such notice is waived in writing by all of the members of the board.

(5) Each member of the board of morticians shall be compensated as provided by section 59-509(m), Idaho Code.

SECTION 11. That Section 54-1203, Idaho Code, be, and the same is hereby amended to read as follows:

54-1203. IDAHO BOARD OF LICENSURE OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS. ~~A board to be known as the "Idaho board of licensure of professional engineers and professional land surveyors" is a division of the Idaho department of self-governing agencies and shall administer the provisions of this chapter.~~ There is hereby established in the division of occupational and professional licenses the Idaho board of licensure of professional engineers and professional land surveyors. It shall consist of seven (7) persons, appointed by the governor who may consider recommendations for appointment to the board from any organized and generally recognized state engineering society in this state, any organized

and generally recognized state land surveying society in this state and from any individual residing in this state. The board shall be comprised of four (4) persons licensed as professional engineers, two (2) persons licensed as professional land surveyors and one (1) person who shall be a member of the general public with an interest in the rights of consumers of engineering and land surveying services. The members of the board shall have the qualifications required by section 54-1204, Idaho Code. Each member of the board shall take, subscribe and file the oath required by chapter 4, title 59, Idaho Code, before entering upon the duties of the office. On the expiration of the term of any member, a successor shall be appointed in like manner by the governor for a term of five (5) years. Any appointment to complete a term that has not expired, because of resignation, removal or inability of a member to serve for any reason, shall be for the unexpired portion of the term. A member of the board shall hold office until the expiration of the term for which he was appointed and until his successor has been appointed and qualified. A member, after serving two (2) consecutive full terms in addition to any unexpired portion of a term, shall not be reappointed for a period of two (2) years. The board, on its own initiative, may appoint any former member as an emeritus member for special assignment to assist the board in the administration of this chapter.

SECTION 12. That Section 54-1403, Idaho Code, be, and the same is hereby amended to read as follows:

54-1403. BOARD OF NURSING. (1) Appointment, Removal and Term of Office. There is hereby created within the ~~department of self-governing agencies~~ division of occupational and professional licenses the board of nursing for the state of Idaho composed of nine (9) members appointed by the governor. Membership of the board shall consist of the following:

- (a) Five (5) persons licensed to practice registered nursing in Idaho;
- (b) Two (2) persons licensed to practice practical nursing in Idaho;
- (c) One (1) person licensed as an advanced practice registered nurse in Idaho; and
- (d) One (1) person who is a lay person to health care occupations.

In making appointments to the board, consideration shall be given to the board's responsibility in areas of education and practice. Members of the board shall hold office until expiration of the term to which the member was appointed and until his successor has been duly appointed and qualified. Upon expiration of any term or creation of any vacancy, the board shall notify the governor thereof, who then shall make such appointment or fill such vacancy within sixty (60) days. Appointments shall be for terms of four (4) years except appointments to vacancies which shall be for the unexpired term being filled. No member shall be appointed for more than three (3) consecutive terms. All board members shall serve at the pleasure of the governor.

(2) Qualifications of Members. No person is qualified for appointment hereunder unless that person is a citizen of the United States and a resident of the state of Idaho. Members required to be licensed hereunder shall not be qualified for appointment to the board unless actively engaged in some field of nursing in Idaho at the time of appointment. No person is qualified for appointment as a lay member of the board if the person or his spouse is licensed in any health occupation; is an employee, officer or agent of or has any financial interest in any health care facility, institution, or association or any insurance company authorized to underwrite health care insurance; or is engaged in the governance and administration of any health care facility, institution or association.

(3) Conduct of Business. The board shall meet at such times as required to conduct the business of the board and shall annually elect from its members a chairman, vice chairman and such other officers as may be desirable. Five (5) members shall constitute a quorum and the vote of a majority of members present at a meeting wherein a quorum is present shall determine the action of the board. Each member of the board shall be compensated as provided by section 59-509(i), Idaho Code.

SECTION 13. That Section 54-1503, Idaho Code, be, and the same is hereby amended to read as follows:

54-1503. STATE BOARD OF OPTOMETRY ESTABLISHED -- QUALIFICATIONS. (1) There is hereby established in the ~~department of self-governing agencies~~ division of occupational and professional licenses a state board of optometry composed of five (5) members who shall be appointed by the governor. The governor may consider recommendations for appointment to the board from any optometric association or any individual residing in this state. Members will serve staggered terms of five (5) years each after the effective date of this act unless otherwise provided in this chapter. A vacancy in membership on the board shall occur when the regular term of a member expires or when a member dies, resigns or is removed from office by the governor. Appointments to fill a vacancy because of the expiration of a regular term shall be filled by the governor by appointment of a member for a five (5) year term. Appointments to fill a vacancy occurring for some reason other than expiration of a term of office shall be made for the unexpired term which is being filled. The members of the board shall serve at the pleasure of the governor.

(2) Four (4) members of the state board of optometry shall be licensed optometrists in the state of Idaho and shall be residents of and lawfully practicing optometry within the state of Idaho for a period of not less than five (5) years immediately preceding their appointment. One (1) member shall be a member of the public with an interest in the rights of consumers of optometric services.

SECTION 14. That Section 54-1603, Idaho Code, be, and the same is hereby amended to read as follows:

54-1603. BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS. (1) There is hereby created in the ~~department of self-governing agencies~~ division of occupational and professional licenses a board of examiners of nursing home administrators, which board shall consist of five (5) members, and be composed of two (2) public or private nursing home administrators, duly licensed and registered under this act, and three (3) other members as hereinafter described, except that such members of the initial board shall be required only to possess the qualifications and be eligible for licensure as required under this act, one (1) member shall be selected from any other profession, agency, or institution concerned with the care of chronically ill and infirm patients; one (1) licensed nurse from the nursing profession; and one (1) member representative of the public at large; but no more than two (2) of the members of the board shall be officials or full-time employees of state or local governments, except that they may be administrators of publicly owned nursing homes. All members of the board shall be citizens of the United States or shall have declared their intent to become citizens of the United States and shall be residents of this state.

(2) The term of office for each member of the board shall be three (3) years.

(3) (a) Appointments to the board shall be made by the governor, who may consider recommendations for appointment to the board from any organized and generally recognized group concerned with nursing home administration and from any individual residing in this state. Each member of the board shall hold office until his successor is duly appointed and qualified. Board members shall serve at the pleasure of the governor.

(b) Members of the board shall be compensated as provided by section 59-509(1), Idaho Code.

(4) The board shall elect annually from its membership a chairman and vice chairman. The board shall hold two (2) or more meetings each year. A majority of the board membership shall constitute a quorum.

(5) The board shall exercise its powers and perform its duties and functions specified by this act.

(6) The board may appoint an executive secretary. He shall be the executive officer to the board but shall not be a member of the board. He shall have such powers and shall perform such duties as are prescribed by law and the rules of the board. A clerk and sufficient deputy clerks to adequately assist the board and the executive secretary in the keeping of the records and in the performance of their duties may be appointed by the board. All employees of the board shall be appointed, and serve in accordance with the provisions of law.

(7) The board may, by written agreement, authorize the bureau division of occupational and professional licenses as agent to act in its interest.

SECTION 15. That Section 54-1706, Idaho Code, be, and the same is hereby amended to read as follows:

54-1706. STATE BOARD OF PHARMACY ESTABLISHED. There is hereby established in the ~~department of self-governing agencies~~ division of occupational and professional licenses a state board of pharmacy whose responsibilities shall be to enforce the provisions of this act. The board shall have all of the duties, powers and authority specifically granted by and necessary to the enforcement of this act, as well as such other duties, powers and authority as it may be granted from time to time by appropriate statute.

SECTION 16. That Section 54-1805, Idaho Code, be, and the same is hereby amended to read as follows:

54-1805. THE STATE BOARD OF MEDICINE ESTABLISHED. (1) There is hereby established in the ~~department of self-governing agencies~~ division of occupational and professional licenses a state board of medicine to be composed of eleven (11) members.

(2) (a) The board shall consist of eleven (11) members. The director of the Idaho state police or the director's designated agent shall be a member of the board. Seven (7) members shall be physicians who are residents of this state and engaged in the active practice of medicine in this state, two (2) members shall be public members, and one (1) member shall be a physician assistant who is a resident of this state and engaged in the active practice of medicine in this state.

(b) All physician and physician assistant appointments to the board shall be for a single six (6) year term. The physician members shall consist of six (6) members who are licensed to practice medicine in this state and one (1) member who is licensed to practice osteopathic medicine in this state. The physician assistant member shall be licensed to practice medicine in this state. Whenever a term of a member of the board who is licensed to practice medicine or osteopathic medicine expires or becomes vacant, the governor shall consider recommendations provided by professional organizations of physicians and physician assistants and by any individual residing in this state for appointment.

(c) All public members shall be appointed by the governor for three (3) year terms. Public members must reside in the state and be persons of integrity and good reputation who have lived in this state for at least five (5) years immediately preceding their appointment, who have never been authorized to practice a healing art, and who have never had a substantial personal, business, professional, or pecuniary connection with a healing art or with a medical education or health care facility, except as patients or potential patients.

(3) Appointments to fill vacancies occurring from some other reason than expiration of a term for which a member was appointed shall be made in the same manner as hereinabove set forth for the unexpired term. All board members shall serve at the pleasure of the governor.

(4) The board shall elect a chairman from its membership. The members of the board, except for state employees, shall be compensated as provided by section 59-509(p), Idaho Code. Six (6) members of the board shall constitute a quorum, and the board may act by virtue of a majority vote of members present at a meeting.

SECTION 17. That Section 54-1905, Idaho Code, be, and the same is hereby amended to read as follows:

54-1905. PUBLIC WORKS CONTRACTORS LICENSE BOARD CREATED -- QUALIFICATIONS OF APPOINTEES -- TERM -- REMOVALS. There is hereby created and made part of the division of ~~building safety in the department of self-governing agencies~~ occupational and professional licenses a public works contractors license board. It shall be the responsibility and duty of the administrator of the division of ~~building safety~~ occupational and professional licenses to administer and enforce the provisions of this chapter, and to serve as secretary to the board. The board shall be composed of eight (8) members, who shall be appointed by the governor. One (1) member of the board shall be a person whose primary business is that of a "heavy construction" contractor, one (1) member shall be a person whose primary business is that of a "highway construction" contractor, one (1) member shall be a person whose primary business is that of a "building construction" contractor, one (1) member shall be a person whose primary business is that of a "specialty construction" contractor, as such construction terms are defined in this chapter, one (1) member shall be a subcontractor with a license no higher than a class "A," one (1) member shall be a "construction manager," one (1) member shall be a registered professional engineer, and one (1) member shall be a member of the general public with an interest in the rights of consumers of public works contracting services. All contractor members of the board shall be contractors holding a current unrevoked license at the time of their appointment, actively engaged in the contracting business and have been so engaged for a period of not less than five (5) years preceding the date of their appointment, and who shall so continue in the contracting business during their term of office. Each member of the board next preceding his appointment shall have been a citizen and resident of the state of Idaho for at least five (5) years. The governor shall appoint a member to said board

for a term of three (3) years, and no member shall be appointed to more than two (2) consecutive terms. All members shall serve at the pleasure of the governor. Each member shall hold office after the expiration of their own term until their successor has been duly appointed and qualified. Vacancies on the board for any cause shall be filled by appointment by the governor for the balance of the unexpired term. Each member of the board shall receive a certificate of appointment from the governor, and before entering upon the discharge of ~~their~~ his duties, shall file with the secretary of state the constitutional oath of office.

SECTION 18. That Section 54-2005, Idaho Code, be, and the same is hereby amended to read as follows:

54-2005. THE IDAHO REAL ESTATE COMMISSION. There is hereby created in the ~~department of self-governing agencies~~ division of occupational and professional licenses the Idaho real estate commission, for the purpose of administering this chapter. The commission shall consist of five (5) members who shall be appointed by the governor and who shall serve at the pleasure of the governor. Members who are licensed under this chapter shall be appointed as follows: one (1) from the northern district consisting of Idaho, Lewis, Nez Perce, Clearwater, Latah, Benewah, Boundary, Shoshone, Kootenai and Bonner counties; one (1) from the southeastern district consisting of Lemhi, Butte, Clark, Fremont, Jefferson, Madison, Teton, Bonneville, Bingham, Caribou, Bear Lake, Franklin, Oneida, Power and Bannock counties; one (1) from the southwestern district consisting of Owyhee, Elmore, Ada, Canyon, Boise, Gem, Payette, Washington, Adams and Valley counties; and one (1) from the south central district consisting of Blaine, Camas, Cassia, Custer, Gooding, Jerome, Lincoln, Minidoka and Twin Falls counties.

SECTION 19. 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 and serve at the pleasure of the governor, is hereby created in the ~~department of self-governing agencies~~ division of occupational and professional licenses. 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. 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 governor may consider recommendations for appointment to the board from the state veterinary medical association, one (1) of the regional veterinary medical associations, and from any individual residing in this state. 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 committee on humane euthanasia 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 2, title 74, 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 director 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 committee on humane euthanasia 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 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.

SECTION 20. That Section 54-2205, Idaho Code, be, and the same is hereby amended to read as follows:

54-2205. PHYSICAL THERAPY LICENSURE BOARD. (1) There is hereby established in the ~~department of self-governing agencies~~ division of occupational and professional licenses a physical therapy licensure board. The board shall consist of five (5) members appointed by the governor and who shall serve at the pleasure of the governor, three (3) of whom shall be licensed physical therapists, one (1) of whom may be a licensed physical therapist assistant or a licensed physical therapist, and one (1) of whom shall be a member of the public with an interest in the rights of the consumers of health services. All members of the board shall be residents of Idaho at the time of their appointment and for their term of service. The persons appointed to the board who are required to be licensed under this chapter shall have been engaged in rendering physical therapy or physical therapy assistant care services, respectively, to the public, in teaching, or in research in physical therapy or physical therapy assistant care services, respectively, for at least three (3) years immediately preceding their appointments. These members, excepting the public member, shall at all times be holders of valid licenses and be in good standing without restriction upon such license for the practice of physical therapy or physical therapy assistant, respectively, in Idaho.

(2) The governor shall appoint members for a term of three (3) years, but no person shall be appointed to serve more than two (2) consecutive terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the first appointed members who shall serve through the last calendar day of the year in which they are appointed, before commencing the terms prescribed in this section.

(3) The governor may consider recommendations for appointment to the board from the Idaho physical therapy association and from any individual residing in this state.

(4) The board shall hold a meeting annually and elect a chairman who shall preside at meetings of the board. In the event the chairman is not present at any board meeting, the board may by majority vote of the members present appoint a temporary chairman. A majority of the members of the board shall constitute a quorum. Other meetings may be convened at the call of the chairman or upon the written request of any two (2) board members.

(5) Each member of the board shall be compensated as provided in section 59-509(n), Idaho Code.

(6) Members of the board shall disqualify themselves and, upon the motion of any interested party may, upon proper showing, be disqualified in any proceeding concerning which they have an actual conflict of interest or bias that interferes with their fair and impartial service.

SECTION 21. That Section 54-2304, Idaho Code, be, and the same is hereby amended to read as follows:

54-2304. ESTABLISHMENT OF BOARD OF PSYCHOLOGIST EXAMINERS. There is hereby created in the ~~department of self-governing agencies,~~ division of occupational and professional licenses an Idaho state board of psychologist examiners as follows:

(1) Said board shall consist of four (4) licensed psychologist members and one (1) public member who is not a practitioner or spouse of a practitioner in any health care field and who is not a convicted felon and who has not been an applicant for licensure as a psychologist, who are citizens of the United States, residents of the state of Idaho, and appointed by the governor for four (4) year terms. The psychologist members' terms shall be staggered such that only one (1) term expires June 30 of each year.

(2) Each psychologist board member shall be licensed under this chapter.

(3) When the term of each psychologist member of the board ends, the governor shall appoint his successor for a term of four (4) years. The governor may consider recommendations for appointment to the board from the Idaho psychological association and from any individual residing in this state. Any vacancy occurring on the board shall be filled by the governor by appointment for the unexpired term. Board members shall serve at the pleasure of the governor.

(4) At all times, the board shall have at least one (1) member who is engaged primarily in rendering services in psychology and at least one (1) member who is engaged primarily in teaching, training, or research in psychology.

(5) No board member shall serve more than two (2) consecutive terms.

(6) Each board member shall be compensated as provided by section 59-509(n), Idaho Code.

(7) The board shall annually in the month of July, hold a meeting, and elect a chairman and vice chairman. The board shall meet at such other times as deemed necessary and advisable by the chairman, or by a majority of its members, or by the governor. Reasonable notice of all meetings shall be given as required by law. A majority of the board shall constitute a quorum at any meeting or hearing.

SECTION 22. That Section 54-2404, Idaho Code, be, and the same is hereby amended to read as follows:

54-2404. STATE BOARD ESTABLISHED -- MANNER OF APPOINTMENT -- QUALIFICATIONS -- TERMS OF OFFICE -- REMOVAL FROM OFFICE. (1) In order to safeguard the environment and protect the public health and establish the minimum competency requirements of persons whose duties are identified in this chapter, there is hereby established in the ~~department of self-governing agencies~~ division of occupational and professional licenses a board of drinking water and wastewater professionals for drinking water and wastewater operators and backflow assembly testers, hereinafter called the board.

(2) The board shall consist of seven (7) members, two (2) of whom shall be drinking water system operators, two (2) of whom shall be wastewater system operators, and one (1) who shall be a backflow assembly tester, all of whom shall be citizens of the United States, residents of the state of Idaho and licensed under the provisions of this chapter, and one (1) who shall be lawfully entitled to reside in the United States and be a resident of the state of Idaho and a member of the public with an interest in the rights of consumers of water and wastewater services, and one (1) who shall be the director of the Idaho department of environmental quality or the director's designated agent.

(3) The governor shall appoint each member to the board for a term of three (3) years. Each member shall serve at the pleasure of the governor and shall serve until a successor is appointed. No member shall be appointed for more than two (2) successive terms or a total of two (2) terms during the life of the board or member.

SECTION 23. That Section 54-2605, Idaho Code, be, and the same is hereby amended to read as follows:

54-2605. IDAHO PLUMBING BOARD. (1) The Idaho plumbing board, referred to as the board, is hereby created and made a part of the division of ~~building safety~~ occupational and professional licenses. It shall be the responsibility and duty of the administrator of the division of ~~building safety~~ occupational and professional licenses to administer and enforce the provisions of this act; and the board shall make, promulgate and publish such rules as may be necessary for carrying out the provisions of this act in order to effectuate the purposes thereof and for the orderly and efficient administration thereof, and except as may be limited or prohibited by law and the provisions of this act, such rules so made and promulgated shall have the force of statute.

(2) The board shall consist of five (5) members. The members shall be appointed at large by the governor and shall serve at the pleasure of the governor. Members shall be appointed for a term of three (3) years. Whenever a vacancy occurs, the governor shall forthwith appoint a qualified person to fill the vacancy for the unexpired portion of the term.

(3) All members of the board shall be United States citizens, residents of this state for not less than two (2) years, and qualified by knowledge, integrity and experience to properly execute the functions of the board. Two (2) members shall be members of the public at large with an interest in the rights of consumers of plumbing services; one (1) member shall be an active plumbing contractor with not less than five (5) years' experience in the plumbing contracting business; one (1) member shall be an active plumbing contractor with not less than five (5) years in the plumbing contracting business with an additional background of experience in gas piping installations in buildings; and one (1) member shall be a journeyman plumber. All members of the board shall take, subscribe and file with the secretary of state an oath of office in the form, manner and time prescribed by chapter 4, title 59, Idaho Code.

(4) The board shall meet within thirty (30) days after the appointment of all its members and thereafter at such other times as may be expedient and necessary for the proper performance of its duties. At the board's first meeting, the members shall elect one (1) of their number to be chairman. A majority of the board shall constitute a quorum for the transaction of business and not less than two (2) quorum meetings shall be held each year. The board may delegate to any member, or its chairman or other employees, the power to make investigations and hold hearings at any place it may deem proper, and to report findings to it; and may delegate to its chairman and employees the performance of ministerial functions.

(5) Each member of the board shall be compensated as provided by section 59-509(n), Idaho Code.

SECTION 24. That Section 54-2803, Idaho Code, be, and the same is hereby amended to read as follows:

54-2803. STATE BOARD OF REGISTRATION FOR PROFESSIONAL GEOLOGISTS -- CREATION -- TERMS OF MEMBERS -- OATH. A state board of registration for professional geologists is hereby created in the ~~department of self-governing agencies~~ division of occupational and professional licenses whose duty it shall be to administer the provisions of this chapter. The board shall consist of five (5) members, who shall be appointed by and shall serve at the pleasure of the governor, four (4) of whom shall have the qualifications required by section 54-2804, Idaho Code, and one (1) of whom shall be a member of the public with an interest in the rights of the consumers of geologist services.

The board shall be comprised of members representing at least three (3) of the following categories: academic geologists, government geologists, salaried company geologists and independent or consultant geologists.

Each member of the board shall take, subscribe and file the oath required by chapter 4, title 59, Idaho Code, before entering upon the duties of his office. On the expiration of the term of any member his successor shall be appointed in like manner by the governor for a term of five (5) years.

Members of the board shall hold office until the expiration of the term for which they were appointed and until their successors have been appointed and qualified.

SECTION 25. That Section 54-2908, Idaho Code, be, and the same is hereby amended to read as follows:

54-2908. SPEECH, HEARING AND COMMUNICATION SERVICES LICENSURE BOARD. (1) There is hereby established in the ~~department of self-governing agencies~~ division of occupational and professional licenses a speech, hearing and communication services licensure board. The board shall consist of seven (7) members appointed by the governor. The governor may consider recommendations for appointment to the board from the Idaho speech, language, hearing association, inc. (ISHA), any Idaho association of hearing aid dealers and fitters, any Idaho association of sign language interpreters and any individual residing in this state. Two (2) members of the board shall be speech-language pathologists, one (1) member shall be licensed as a sign language interpreter, two (2) members shall be audiologists, one (1) member shall be a hearing aid dealer and fitter, and one (1) member shall be appointed from the public ~~at-large~~ at large. Each nonpublic member shall:

(a) Have been a resident of the state of Idaho for no less than one (1) year immediately preceding his or her appointment;

(b) Have been engaged in rendering services to the public, teaching, or performing research in the field of audiology, speech-language pathology, sign language interpreting, or hearing aid dealing and fitting for a period of not less than five (5) years preceding his or her appointment;

(c) Be a currently practicing audiologist, speech-language pathologist, sign language interpreter, or hearing aid dealer and fitter; and

(d) At all times during such appointment to the board, maintain a valid license in audiology, speech-language pathology, sign language interpreting, or hearing aid dealing and fitting, except for the first appointees who shall meet the eligibility requirements for licensure as specified in this chapter at all times after initial appointment.

(2) The public member appointed as provided herein shall have been a resident of the state of Idaho for not less than one (1) year immediately preceding his appointment. Further, such public member shall not be associated with or financially interested in the practice or business of audiology, speech-language pathology, sign language interpreting, or hearing aid dealing and fitting, nor shall such public member be engaged in an allied or related profession or occupation.

(3) Members shall serve a term of three (3) years at the pleasure of the governor. In the event of a vacancy other than expiration of a term, the governor shall appoint a replacement to fill the vacancy for the remainder of the unexpired term.

(4) Members shall disqualify themselves and, upon the motion of any interested party may, upon proper showing, be disqualified in any proceeding concerning which they have an actual conflict of interest or bias that interferes with their fair and impartial service.

SECTION 26. That Section 54-3003, Idaho Code, be, and the same is hereby amended to read as follows:

54-3003. QUALIFICATIONS -- EXAMINATIONS -- BOARD -- LICENSES -- FEES -- ENDORSEMENT -- EXEMPTIONS -- INDIVIDUALS, PARTNERSHIPS AND CORPORATIONS -- RESTRICTION ON USE OF NAME -- SEAL. (1) Application and practice. In order to safeguard human health and property, and to promote the public welfare, any person in either public or private capacity practicing or offering to practice landscape architecture shall be required to submit evidence of qualifications to practice and shall be issued a license under the provisions of this chapter.

(2) Qualifications. For licensure as a landscape architect, evidence must be submitted to the board that the applicant:

(a) Is eighteen (18) years of age or older;

(b) Has graduated from a college or school of landscape architecture approved by the board. In lieu of graduation from an approved college or school of landscape architecture, an applicant may present evidence of at least eight (8) years of actual, practical experience in landscape architecture of a grade and character satisfactory to the board, as established by rule, that the applicant is competent to practice landscape architecture; and

(c) Has successfully passed an examination approved by the board.

(3) Examinations. The board shall adopt rules covering the subjects and scope of the examinations. Every applicant for license as a landscape architect shall be required, in addition to all other requirements, to establish by written examination his competency to plan, design, specify and supervise the installation and construction of landscape architectural projects. Each written examination may be supplemented by such oral examinations as the board may determine.

(4) The board.

(a) There is hereby created in the ~~department of self-governing agencies~~ division of occupational and professional licenses an Idaho state board of landscape architects. The board shall consist of two (2) landscape architects and one (1) member of the public with an interest in the rights of the consumers of landscape architect services. Members of the board shall be appointed by and shall serve at the pleasure of the governor and must be residents of this state. The terms of the members of the board shall be for four (4) years. Each member shall hold office until the appointment and qualification of his successor. Vacancies occurring prior to the expiration of the term shall be filled by appointment in like manner for the unexpired term.

(b) The board shall have, in addition to the powers set forth elsewhere in this chapter, the following powers and duties:

(i) To authorize, by written agreement, the ~~bureau~~ division of occupational and professional licenses to act as agent in its interest, and to make such rules as shall be necessary in the performance of its duties;

(ii) To adopt rules of professional responsibility;

(iii) To adopt rules requiring the completion of continuing education by each licensee on an annual basis;

(iv) The board, or its duly appointed hearing officer, shall have the power in any disciplinary proceeding against a licensee under this chapter, to administer oaths, take depositions of witnesses within or outside of the state in the manner provided by law in civil cases, and to 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 the board deems necessary in a disciplinary proceeding against a licensee. 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 board expenses. In any case of disobedience to, or neglect of, any subpoena or subpoena duces tecum served upon any person, or refusal of any witness to testify to any matter about 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 conducting 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.

(c) The board shall elect, at its first meeting of every calendar year, a chairman from its members. In carrying out the provisions of this chapter, all members of the board shall be compensated as provided by section 59-509(m), Idaho Code. Payment of travel and other expenses shall be made from the occupational licenses fund.

(5) Renewal and reinstatement -- Revenue.

(a) 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.

(b) Amounts. The amount of fees shall be as determined by the board within the following stated limits:

- (i) The application fee not to exceed one hundred dollars (\$100).
 - (ii) The fee for examination to be established by board rule not to exceed that charged by the council of landscape architectural registration boards plus a fifty dollar (\$50.00) processing fee. The board may recover the actual costs associated with an applicant's review of a failed examination.
 - (iii) The fee for an original license and the annual license fee not to exceed two hundred dollars (\$200).
- (c) Refund. Fees shall be nonrefundable.
- (d) Deposit. 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 board under the provisions of this chapter shall be a charge against and paid from said fund for such purposes, and the funds collected hereunder shall be immediately available for the administration of this chapter, the provisions of any other law notwithstanding. In no instance will the occupational licenses fund be obligated to pay any claims that in aggregate with claims already paid exceed the income to the occupational licenses fund which has been derived by the application of this chapter.
- (e) Appropriation. The money paid into the occupational licenses fund is continuously appropriated to the board for expenditure in the manner prescribed herein to defray the expenses of the board and in carrying out and enforcing the provisions of this chapter.
- (6) Endorsement provisions. The board may approve for licensure:
- (a) An individual with a current council of landscape architectural registration boards (CLARB) certification; or
 - (b) With limited examination an applicant who is legally registered or licensed as a landscape architect in any other state or country whose requirements for registration or licensure are at least substantially equivalent to the requirements of this state.
- (7) Exemptions.
- (a) None of the provisions of this chapter shall prevent employees of those lawfully practicing as landscape architects from acting under the instruction, control or supervision of their employers.
 - (b) None of the provisions of this chapter shall apply to the business conducted in this state by any land use planner, horticulturist, nurseryman, or landscape nurseryman, gardener, landscape gardener, landscape designer, or landscape contractor, as these terms are generally used, or any other person, including, but not limited to, their right to plan and supervise in connection therewith, except that no such person shall use the designation "landscape architect," "landscape architecture," or any description tending to convey the impression that they are a licensed landscape architect unless they are registered as provided in this chapter.
 - (c) This chapter shall not apply to architects, professional engineers, geologists, and land surveyors licensed to practice their respective professions.
- (8) This chapter applies to individuals only.
- (a) All licenses shall be issued to individuals only but nothing contained in this chapter shall prevent a duly licensed landscape architect from rendering professional services for a corporation, firm, partnership or association.

(b) Partners. Each partner in a partnership of landscape architects shall be licensed to practice landscape architecture or to provide allied professional services as defined in section 30-21-901, Idaho Code. Subject to this requirement, a partnership of landscape architects may use a partnership name if such name consists of:

(i) The names of two (2) or more landscape architects.

(ii) The names of one (1) or more landscape architects and one (1) or more professional engineers or architects.

(c) Any person applying to the official of any county or city for a business license to practice landscape architecture shall at the time of such application exhibit to such official satisfactory evidence that such applicant possesses a current Idaho license. The business license shall not be granted until such evidence is presented, any contrary provision of any special act or general act notwithstanding.

(9) Qualifications for practice -- Seal:

(a) No person shall use the designation "landscape architect" or "landscape architecture" or advertise any title or description tending to convey the impression that the person is a landscape architect, or practicing landscape architecture, unless such person is a licensed landscape architect. Every holder of a license shall display it in the principal office, place of business or place of employment.

(b) Every landscape architect shall have a seal approved by the board, which shall contain the name of the landscape architect and the words "Licensed Landscape Architect, State of Idaho," and such other words or figures as the board may deem necessary and prescribe.

(i) The seal may be a rubber stamp or an electronically applied seal. Whenever the seal is applied, the licensee's written signature and the date shall be adjacent to or across the seal. The seal, signature and date shall be placed on all final reports, drawings and title pages of specifications, design information and calculations. Whenever presented to a client or to the public, such documents that are not final and do not contain a seal, signature and date, shall be clearly marked as "preliminary," "draft," "not for construction" or similar words to distinguish the documents from a finished product.

(ii) The application of the licensee's seal, signature and the date shall constitute certification that the work thereon was prepared by such landscape architect or under the supervision of such landscape architect. Each plan or drawing sheet shall be sealed and signed by the licensee or the licensee's agent responsible for each sheet. The principal landscape architect in charge shall sign and seal the title or first sheet. Copies of electronically produced documents listed in paragraph (b) (i) of this subsection that are distributed for informational use, such as for bidding purposes or working copies, may be issued with the licensee's seal and a notice that the original document is on file with the licensee's signature and date. The words "original signed by:" and "date signed:" shall be placed adjacent to or across the seal of the electronic original. The storage location of the original documents shall also be provided. Only the title page of reports, specifications and like documents need bear the seal and signature of the licensee and the date.

(iii) Nothing contained herein shall be construed to permit a landscape architect to practice as a licensed architect, a licensed professional engineer or a licensed land surveyor as these professions are defined by Idaho Code; provided however, nothing contained herein shall be construed to prevent a landscape architect from practicing landscape architecture.

SECTION 27. That Section 54-3105, Idaho Code, be, and the same is hereby amended to read as follows:

54-3105. CERTIFIED SHORTHAND REPORTERS BOARD -- MEMBERS -- TERM -- APPOINTMENT. (1) There is hereby created in the division of occupational and professional licenses a state-certified shorthand reporters board of the state of Idaho which shall consist of five (5) members. Two (2) members of the board shall be certified shorthand reporters who have had at least five (5) years continuous experience immediately prior to their nomination as a freelance shorthand reporter or official court reporter. One (1) other member of the board shall be an Idaho district judge nominated by the Idaho supreme court. One (1) other member of the board shall be a member of the Idaho state bar and nominated by the Idaho state bar association. One (1) other member shall be a member of the public with an interest in the rights of consumers of shorthand reporter services.

(2) The members of the board shall hold office for terms of three (3) years each. Appointments to fill vacancies shall be for the unexpired term of such vacancies.

(3) Board members shall be appointed by and serve at the pleasure of the governor. The governor may consider recommendations for appointment to the board from the Idaho court reporters association and from any individual residing in this state. Each member of the board shall hold office for the specified term and until a successor is duly appointed by the governor.

SECTION 28. That Section 54-3203, Idaho Code, be, and the same is hereby amended to read as follows:

54-3203. STATE BOARD OF SOCIAL WORK EXAMINERS -- CREATED -- APPOINTMENTS -- TERMS. (1) A state board of social work examiners is hereby created and made a part of the ~~department of self-governing agencies~~ division of occupational and professional licenses. It shall be the duty of the board to administer the provisions of this chapter pursuant to the provisions of chapters 26 and 52, title 67, Idaho Code. The board shall consist of six (6) members, three (3) of which shall be masters social workers, and two (2) of which shall be social workers, and one (1) of which shall be a lay member and all of whom shall be appointed by and serve at the pleasure of the governor. All terms shall be for a period of five (5) years. Whenever a board member's term expires or a vacancy occurs, the governor may consider recommendations for appointment to the board for a new term or for an unexpired term from any Idaho organization and from any individual residing in this state.

(2) Each social work member of the board shall:

(a) Be a resident of this state;

(b) Be currently licensed and in good standing to engage in the practice of social work in this state;

(c) At the time of appointment, have been actively engaged in the practice of social work for at least one (1) out of the last five (5) years; and

(d) Have at least three (3) years of experience in the practice of social work.

(3) Each fiscal year, the chairmanship will rotate to the person who is in the fourth year of their five (5) year term. The chairman shall preside at all meetings of the board. If this person is unable to serve, an election by a majority vote of the board shall determine the person who will serve as chair for that fiscal year. In the event the chairman is not present at any board meeting, the board may by majority vote of the members present appoint a temporary chairman. A majority of the members of the board shall constitute a quorum.

(4) Each member of the board shall be compensated as provided by section 59-509(b), Idaho Code.

SECTION 29. That Section 54-3307, Idaho Code, be, and the same is hereby amended to read as follows:

54-3307. BOARD -- MEMBERS -- VACANCIES. (a) There is hereby created in the division of occupational and professional licenses a state board of dentistry of the state of Idaho, which shall consist of five (5) members. Three (3) members of the board shall be persons who have been nominated by the association of Idaho denturists, inc. and by any individual residing in this state, who have had at least five (5) years continuous experience immediately prior to their nomination in the practice of dentistry. Two (2) other members of the board shall be lay persons nominated by the director of the Idaho department of health and welfare or by any individual residing in this state.

(b) Members shall be appointed to the board for terms of three (3) years each and shall serve at the pleasure of the governor. Appointments to fill vacancies shall be for the unexpired term of such vacancies.

(c) Appointments to the board shall be made by the governor and each member of the board shall hold office for his term and until his successor is duly appointed by the governor.

SECTION 30. That Section 54-3403, Idaho Code, be, and the same is hereby amended to read as follows:

54-3403. BOARD -- ORGANIZATION AND MEETINGS. There is hereby created in the department of self-governing agencies division of occupational and professional licenses an Idaho state licensing board of professional counselors and marriage and family therapists as follows:

(1) The board shall consist of six (6) members, residents of the state of Idaho, who shall be appointed by and serve at the pleasure of the governor. In making appointments, the governor shall give consideration to recommendations submitted by the Idaho counseling association in consultation with other state counselor organizations, the Idaho association for marriage and family therapy in consultation with other state marriage and family therapy organizations, and any individual residing in this state.

(2) When the term of each member ends, the governor shall appoint the successor for a term of four (4) years from qualified candidates. Any vacancy occurring on the board shall be filled by the governor by appointment for the unexpired term.

(3) At all times, the board shall have two (2) members who are licensed as clinical professional counselors or professional counselors and who are engaged primarily in rendering counseling service; one (1) member who is engaged or has been engaged primarily in teaching, training or research in higher education in counseling or marriage and family therapy; one (1) member who is licensed or is eligible for licensure as both a professional counselor and a marriage and family therapist and who is engaged primarily in rendering marriage and family therapy or marriage and family counseling; one (1) member who is licensed as a marriage and family therapist and who is engaged primarily in rendering marriage and family therapy; and one (1) member from the general public with an interest in the rights of consumers of counseling and therapy services. Except for the initial appointment, all members of the board except the member from the general public shall be licensed under this chapter.

(4) No board member shall serve more than two (2) full consecutive terms.

(5) The members of the board shall be compensated as provided in section 59-509(m), Idaho Code.

(6) The board shall annually hold a meeting and elect a chairman and vice chairman from among its members. The board shall meet at such other times as deemed necessary and advisable by the chairman, or by a majority of its members, or by the governor. Notice of all meetings shall be given in the manner prescribed by law. A majority of the board shall constitute a quorum at any meeting or hearing.

SECTION 31. That Section 54-3714, Idaho Code, be, and the same is hereby amended to read as follows:

54-3714. LICENSURE BOARD. (1) There is hereby created in the division of occupational and professional licenses the occupational therapy licensure board of Idaho.

(2) The occupational therapy licensure board of Idaho shall consist of five (5) members who shall be appointed by and serve at the pleasure of the governor, three (3) of whom shall be occupational therapists, one (1) of whom shall be an occupational therapy assistant, and one (1) of whom shall be a member of the public with an interest in the rights of consumers of occupational therapy services. All members of the board shall be residents of Idaho. The governor may consider recommendations for appointment to the board from the association and from any individual residing in this state. The persons appointed to the licensure board who are required to be licensed under this chapter shall have been engaged in rendering occupational therapy services to the public, teaching, or research in occupational therapy for at least five (5) years immediately preceding their appointments and shall at all times be holders of a valid license and be in good standing without restriction upon such license.

(23) Appointments shall be for three (3) year terms, but no person shall be appointed to serve more than two (2) consecutive terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed.

(34) The licensure board shall annually hold a meeting and elect a chairman who shall preside at meetings of the licensure board. In the event the chairman is not present at any licensure board meeting, the licensure board may by majority vote of the members present appoint a temporary chairman. A majority of the members of the licensure board shall constitute a quorum. Other meetings may be convened at the call of the chairman or the written request of any two (2) licensure board members.

(45) Each member of the licensure board shall be compensated as provided in section 59-509(n), Idaho Code.

SECTION 32. That Section 54-4006, Idaho Code, be, and the same is hereby amended to read as follows:

54-4006. BOARD OF MASSAGE THERAPY. (1) ~~There is hereby established in the department of self-governing agencies, bureau of occupational licenses, division of occupational and professional licenses~~ the board of massage therapy. The members thereof shall be appointed by the governor and serve at the pleasure of the governor.

(2) The board shall consist of five (5) members, four (4) of whom shall be licensed pursuant to this chapter and one (1) of whom shall be a member of the public with an interest in the rights of the consumers of massage therapy services. At no time shall more than one (1) board member be an owner of, an instructor of, or otherwise affiliated with a board-approved course of instruction or any other massage therapy school or course of instruction.

(3) Professional massage therapy associations and/or any resident of the state of Idaho may provide nominations to the governor.

(4) All members of the board shall be residents of the state of Idaho for the duration of their appointment and shall have been residents of the state of Idaho for a minimum of three (3) years immediately preceding appointment.

(5) The initial four (4) massage therapist members of the board shall be persons with at least three (3) years of experience in the practice of massage therapy who become licensed pursuant to this chapter.

(6) The initial board shall be appointed for staggered terms, the longest of which shall not exceed three (3) years. After the initial appointments, all terms shall be for three (3) years, and a member may be reappointed for a second term. No member shall serve more than two (2) terms. In the event of death, resignation or removal of any member before the expiration of the term to which appointed, the vacancy shall be filled for the unexpired portion of the term in the same manner as the original appointment.

(7) The board, within thirty (30) days after its initial appointment and at least annually thereafter, shall hold a meeting and elect a chairman. The board may hold additional meetings on the call of the chairman or at the written request of any three (3) members of the board. The board may appoint such committees as it considers necessary to carry out its duties. A majority of the members of the board shall constitute a quorum.

(8) Each member of the board shall be compensated as provided in section 59-509(p), Idaho Code.

SECTION 33. That Section 54-4106, Idaho Code, be, and the same is hereby amended to read as follows:

54-4106. REAL ESTATE APPRAISERS -- REAL ESTATE APPRAISER BOARD -- POWERS AND DUTIES -- COMPENSATION. (1) There is hereby created in the ~~department of self-governing agencies~~ division of occupational and professional licenses a real estate appraiser board, hereinafter referred to as the "board," which shall administer the provisions of this chapter. The board shall consist of five (5) members to be appointed by and to serve at the pleasure of the governor as follows:

(a) One (1) real estate appraiser from the northern district consisting of the counties of Idaho, Lewis, Nez Perce, Clearwater, Latah, Benewah, Boundary, Shoshone, Kootenai and Bonner; one (1) real estate appraiser from the southeastern district consisting of the counties of Lemhi, Butte, Clark, Fremont, Jefferson, Madison, Teton, Bonneville, Bingham, Caribou, Bear Lake, Franklin, Oneida, Power and Bannock; one (1) real estate appraiser from the southwestern district consisting of the counties of Owyhee, Elmore, Ada, Canyon, Boise, Gem, Payette, Washington, Adams and Valley; one (1) real estate appraiser from the south central district consisting of the counties of Blaine, Camas, Cassia, Custer, Gooding, Jerome, Lincoln, Minidoka and Twin Falls; and one (1) public member from the state at large;

(b) The governor shall appoint the members of the board, four (4) of whom shall be real estate appraisers with not less than five (5) years' experience in the real estate appraisal business in Idaho and one (1) of whom shall be a member of the public with an interest in the rights of consumers of real estate appraisal services. Each regular appointment, other than an appointment to fill an unexpired term, shall be for a term of four (4) years and each board member shall hold office until a successor is appointed and qualified. Upon the death, resignation or removal of any member of the board, the governor shall appoint a qualified person to fill the unexpired term. Appointments to fill any vacancy other than that resulting from the expiration of a term shall be made for the unexpired term;

(c) The board shall call a meeting not less than one (1) time annually to organize and elect a chairman. Thereafter, the chairman may call meetings of the board whenever he deems it advisable but if he refuses to call a meeting upon written demand of the other four (4) members of the board, then such members may call such meeting. Reasonable notice shall be given in writing by mail of such meeting.

(2) The board shall have, in addition to the powers conferred elsewhere in this chapter, the following powers and duties:

(a) To authorize, by written agreement, the bureau division of occupational and professional licenses to act as its agent in its interest;

(b) To adopt, pursuant to the administrative procedure act, such rules as the board, in its discretion, deems necessary for the administration and enforcement of this chapter, and any such rules deemed necessary by the board to keep the Idaho real estate appraisers act in compliance with federal law, rule, regulation or policy;

(c) To conduct investigations into violations of the provisions of this chapter;

(d) To receive applications for and issue licenses or certificates to real estate appraisers pursuant to this chapter;

(e) To hold meetings, hearings and examinations at such places and at such times as it shall designate;

(f) To collect, deposit and disburse application and other fees, as required by this chapter or federal law;

(g) To maintain a register of all state licensed or certified residential and state certified general real estate appraisers;

(h) To censure a state licensed or certified appraiser or suspend or revoke appraisal licenses or certificates as provided in this chapter, subject to the provisions of the Idaho administrative procedure act, chapter 52, title 67, Idaho Code;

(i) To adopt rules governing the registration and limitations of real estate appraiser trainees; and

(j) To require new applicants to submit to a satisfactory fingerprint-based criminal history check of the Idaho central criminal database and the federal bureau of investigation criminal history database and to collect fees from applicants for the costs of such background check.

(3) Each member of the board of real estate appraisers shall be compensated as provided in section 59-509(m), Idaho Code.

SECTION 34. That Section 54-4204, Idaho Code, be, and the same is hereby amended to read as follows:

54-4204. BOARD OF EXAMINERS OF RESIDENTIAL CARE FACILITY ADMINISTRATORS. (1) There is hereby created in the ~~department of self-governing agencies~~ division of occupational and professional licenses a board of examiners of residential care facility administrators that shall consist of five (5) members and be composed of two (2) residential care facility administrators, duly licensed and registered under this chapter, one (1) member shall be selected from any other profession or agency or institution concerned with the care of persons requiring assistance with the daily activities of living, one (1) licensed nurse from the nursing profession and one (1) member representative of the public at large; but no more than two (2) of the members of the board shall be officials or full-time employees of state or local governments. All members of the board shall be citizens of the United States or shall have declared their intent to become citizens of the United States and shall be residents of this state.

(2) The term of office for each member of the board shall be three (3) years, and all board members shall serve at the pleasure of the governor.

(3) (a) Appointments to the board shall be made by the governor who may consider recommendations for appointment to the board from any organized and generally recognized group concerned with residential care facility administration and from any individual residing in this state. Each member of the board shall hold office until his successor is duly appointed and qualified. Dismissals shall be by the governor, for reasonable cause.

(b) Members of the board shall be compensated as provided in section 59-509(1), Idaho Code.

(4) The board shall elect annually from its membership a chairman and vice chairman. The board shall hold two (2) or more meetings each year. A majority of the board membership shall constitute a quorum.

(5) The board shall exercise its powers and perform its duties and functions specified by this chapter.

(6) The board may, by written agreement, authorize the bureau division of occupational and professional licenses, or other appropriate body as provided by law, as agent to act in its interest.

SECTION 35. That Section 54-4704, Idaho Code, be, and the same is hereby amended to read as follows:

54-4704. BOARD OF ACUPUNCTURE CREATED -- APPOINTMENT -- TERMS. (1) There is hereby established in the ~~department of self-governing agencies~~ division of occupational and professional licenses a state board of acupuncture and the members thereof shall be appointed by the governor within sixty (60) days following the effective date of this chapter.

(2) The board shall consist of five (5) members, three (3) of whom shall be licensed pursuant to this chapter, one (1) of whom shall be certified pursuant to this chapter, and one (1) of whom shall be a member of the public with an interest in the rights of the consumers of acupuncture services.

(3) In making appointments to the board of acupuncture, consideration shall be given to recommendations made by the Idaho acupuncture association, other similar professional organizations and any individual residing in this state.

(4) All members of the board shall be current residents of the state of Idaho and have been residents of the state of Idaho for a minimum of three (3) years immediately preceding appointment.

(5) All terms shall be four (4) years, and a member may be reappointed. In the event of death, resignation, or removal of any member before the expiration of the term to which appointed, the vacancy shall be filled for the unexpired portion of the term in the same manner as the original appointment.

(6) Board members shall serve at the pleasure of the governor.

(7) The board shall, within thirty (30) days after its appointment, and at least annually thereafter, hold a meeting and elect a chairman. The board may hold additional meetings on the call of the chairman or at the written request of any two (2) members of the board. The board may appoint such committees as it considers necessary to carry out its duties. A majority of the members of the board shall constitute a quorum.

(8) Each member of the board shall be compensated as provided in section 59-509(p), Idaho Code.

SECTION 36. That Section 54-5004, Idaho Code, be, and the same is hereby amended to read as follows:

54-5004. IDAHO HEATING, VENTILATION AND AIR CONDITIONING BOARD. (1) The Idaho heating, ventilation and air conditioning board, referred to as the board, is hereby created and made part of the division of building safety occupational and professional licenses. It shall be the responsibility and duty of the administrator of the division of building safety occupational and professional licenses to administer and enforce the provisions of this chapter, and the board shall make, promulgate and publish such rules as may be necessary to carry out the provisions of this chapter. Except as may be limited or prohibited by law, such rules so made and promulgated shall have the force of statute.

(2) The board shall consist of seven (7) members, appointed by the governor, who shall serve at the pleasure of the governor. All board members shall be appointed for a term of three (3) years. Whenever a vacancy occurs, the governor shall forthwith appoint a qualified person to fill the vacancy for the unexpired portion of the term. All members of the board shall be United States citizens, residents of this state for not less than two (2) years, and qualified by knowledge, integrity and experience to properly perform the functions of the board. All members of the board shall take, subscribe and file with the secretary of state an oath of office in the form, manner and time as prescribed by chapter 4, title 59, Idaho Code.

(3) Of the seven (7) board members, two (2) members shall be active HVAC contractors with not less than five (5) years' experience in the HVAC contracting business; one (1) member shall be a city official; one (1) member shall be a county official; one (1) member shall be a private sector mechanical engineer with experience in mechanical system design; one (1) member shall be a representative of the HVAC industry; and one (1) member shall be a member of the general public with an interest in the rights of consumers of HVAC services.

(4) The board shall meet within thirty (30) days after the appointment of all its members and thereafter at such other times as may be expedient and necessary for the proper performance of its duties. At the board's first meeting, and every two (2) years thereafter, the members shall elect one (1) of their number to be chairman and one (1) of their number to be vice chairman. A majority of the board shall constitute a quorum for the transaction of business and not less than two (2) quorum meetings shall be held each year. The board may delegate to any member, or its chairman or other employees, the power to make investigations and hold hearings at any place it may deem proper, and to report findings to it; and it may delegate to its chairman and employees the performance of ministerial functions.

(5) Each member of the board shall be compensated as provided in section 59-509(n), Idaho Code.

SECTION 37. That Section 54-5206, Idaho Code, be, and the same is hereby amended to read as follows:

54-5206. IDAHO CONTRACTORS BOARD. (1) The Idaho contractors board is hereby created and made a part of the ~~bureau of occupational licenses~~ division of occupational and professional licenses. It shall be the responsibility and duty of the ~~bureau chief~~ division administrator to administer this chapter, and the ~~bureau chief~~ division administrator shall exercise such powers and duties as are reasonably necessary to enforce the provisions of this chapter. The board may promulgate such rules as may be necessary to carry out the provisions of this chapter in order to effectuate the purposes herein and for the orderly and efficient administration thereof, except as may be limited or prohibited by law and the provisions of this chapter.

(2) The board shall consist of four (4) members who are contractors, and one (1) member of the public at large, all of whom shall be appointed by the governor as follows: one (1) contractor from the northern district consisting of Idaho, Lewis, Nez Perce, Clearwater, Latah, Benewah, Boundary, Shoshone, Kootenai and Bonner counties; one (1) contractor from the southeastern district consisting of Lemhi, Butte, Clark, Fremont, Jefferson, Madison, Teton, Bonneville, Bingham, Caribou, Bear Lake, Franklin, Oneida, Power and Bannock counties; one (1) contractor from the southwestern district consisting of Owyhee, Elmore, Ada, Canyon, Boise, Gem, Payette, Washington, Adams and Valley counties; one (1) contractor from the south central district consisting of Blaine, Camas, Cassia, Custer, Gooding, Jerome, Lincoln, Minidoka and Twin Falls counties. The one (1) member of the public at large shall reside in the state of Idaho and be a person of integrity and good reputation who has lived in this state for at least five (5) years immediately preceding appointment, who has never been registered as a contractor in this or another state, and who has never had a substantial personal, business, professional or pecuniary connection with a contractor except as a purchaser or owner of real property.

(3) Each member of the board who is a contractor shall serve a term of four (4) years. No member of the board may be appointed to more than two (2) consecutive terms, and all board members shall serve at the pleasure of the governor.

(4) The board shall meet within thirty (30) days after the appointment of all its members and thereafter at such other times as may be expedient and necessary for the proper performance of its duties, but not less than once during each calendar quarter. At the board's first meeting, the members shall elect one (1) of their number to be chairman. The chairman may serve in such capacity for a one (1) year term and may not serve in such capacity for more than two (2) consecutive terms. A majority of the board shall constitute a quorum for the transaction of business.

(5) The board may delegate to the ~~bureau chief~~ division administrator:

(a) The power to perform ministerial functions, investigate and discipline, hold hearings, appoint hearing officers, summon witnesses to appear, administer oaths and take affirmations of witnesses at any formal proceeding or before a duly appointed hearing officer;

(b) The power to appoint competent persons to issue subpoenas, administer oaths and take testimony; and

(c) The power to enforce orders of the board.

(6) Each member of the board shall be compensated as provided by section 59-509(n), Idaho Code.

(7) On and after January 1, 2006, each member of the board who is a contractor shall be registered in accordance with this chapter and shall be in good standing.

SECTION 38. That Section 54-5309, Idaho Code, be, and the same is hereby amended to read as follows:

54-5309. IDAHO LIQUEFIED PETROLEUM GAS SAFETY BOARD. (1) There is hereby established in the ~~department of self-governing agencies~~ division of occupational and professional licenses the Idaho liquefied petroleum gas safety board and the members thereof shall be appointed by the governor. In making appointments, the governor shall give consideration to recommendations submitted by the rocky mountain propane association and from any individual residing in this state.

(2) The board shall consist of five (5) members, two (2) of whom shall be licensed dealers pursuant to the provisions of this chapter; and one (1) of whom shall be a volunteer firefighter in a rural area of the state; and one (1) of whom shall be a firefighter employed by a city fire department in the state; and one (1) of whom shall be a representative of the general public not

employed or otherwise connected with the practices or operations regulated pursuant to this chapter.

(3) The members of the first board shall serve for the following terms: one (1) dealer member shall serve for one (1) year; one (1) firefighter member shall serve for two (2) years; one (1) dealer member shall serve for three (3) years; and one (1) firefighter member and the public member shall each serve for four (4) years. Each member shall serve from the effective date of appointment or until a successor is duly appointed and qualified. Upon the expiration of the term of any member of the board, the governor shall appoint the subsequent member for a term of four (4) years. No member shall be appointed for more than two (2) successive terms.

(4) Board members shall serve at the pleasure of the governor.

(5) Three (3) members of the board shall constitute a quorum, and may exercise all the power and authority conferred on the board.

(6) The members shall meet annually and elect from among the members by majority vote of those present a chairman who shall serve for one (1) year.

(7) The board shall meet no less than annually at such times and at such places as may be specified by the chairman or by the written request of at least two (2) members.

(8) Each member of the board shall be compensated as provided in section 59-509(n), Idaho Code.

SECTION 39. That Section 54-5403, Idaho Code, be, and the same is hereby amended to read as follows:

54-5403. BOARD -- TERMS OF MEMBERS -- QUALIFICATIONS -- POWERS AND DUTIES -- MEETINGS -- COMPENSATION. (1) A driving businesses licensure board is hereby established in the ~~department of self-governing agencies~~ division of occupational and professional licenses whose duty it shall be to administer the provisions of this chapter.

(2) The board shall consist of five (5) members appointed by the governor. The governor may consider recommendations for appointment to the board from the Idaho association of professional driving businesses, any association of driving businesses or from any individual residing in this state. The board shall consist of four (4) members who are licensed under this chapter and one (1) member of the public. At least one (1) member shall be a driving business owner.

(3) Members shall serve at the pleasure of the governor. Board members shall be appointed for a term of three (3) years. No member of the board may be appointed to more than two (2) consecutive terms. Members of the board shall hold office until the expiration of the term for which they were appointed and until their successors have been appointed and qualified. In the event of a vacancy other than expiration of a term, the governor shall appoint a replacement to fill the vacancy for the remainder of the unexpired term.

(4) Members of the board shall be citizens of the United States and residents of this state and shall never have been the subject of a disciplinary action under the provisions of section 54-5409, Idaho Code.

(5) The board shall:

(a) Enforce the minimum standards and requirements as provided in this chapter and by rule adopted by the board. The board may promulgate such rules, in compliance with chapter 52, title 67, Idaho Code, as may be necessary to carry out the provisions of this chapter in order to effectuate the purposes herein and for the orderly and efficient administration thereof, except as may be limited or prohibited by law and the provisions of this chapter;

(b) Accept or reject applications for licensing, business, and instruction and establish the fees to be charged for original application and renewal, subject to the provisions of this chapter;

- (c) Hold and attend public meetings and furnish copies of information to those engaged in the business and to the public upon request;
- (d) Review and approve instructor training curriculum and programs;
- (e) Contract with the bureau division of occupational and professional licenses to provide administrative services;
- (f) Include a link on the bureau division of occupational and professional licenses' website to current curriculum components offered by private driver education businesses; and
- (g) Adopt rules providing for continuing education, if necessary.

(6) The board shall have the authority to conduct inspections and audits of any licensed driving business or any licensed instructor to ensure compliance with the laws and rules of the board. Failure to cooperate with an inspection or audit may constitute grounds for disciplinary action.

(7) The board shall meet at such times as may be expedient and necessary for the proper performance of its duties, but it shall not meet less than once per year.

(8) The members shall elect annually one (1) of their number to be chairman. The chairman may serve in such capacity for a one (1) year term and may not serve in such capacity for more than two (2) consecutive terms.

(9) A majority of the board shall constitute a quorum for the transaction of business.

(10) Each member of the board shall be compensated as provided by section 59-509(k), Idaho Code.

SECTION 40. That Section 54-5503, Idaho Code, be, and the same is hereby amended to read as follows:

54-5503. BOARD OF MIDWIFERY CREATED. (1) There is hereby established in the ~~department of self-governing agencies, bureau of occupational licenses,~~ division of occupational and professional licenses a board of midwifery.

(2) The board shall consist of five (5) members appointed by the governor, three (3) of whom shall be licensed pursuant to this chapter, one (1) of whom shall be a licensed physician who is board-certified in either obstetrics/gynecology or family medicine, maintains current hospital privileges and has provided primary maternity care for at least twenty (20) births in the twelve (12) months prior to the appointment, and one (1) of whom shall be a member of the public with an interest in the rights of consumers of midwifery services.

(3) The term of office for each board member shall be five (5) years.

(4) In making appointments to the board, the governor's selection shall not be limited to nominations he receives; however, consideration shall be given to recommendations made by the Idaho midwifery council and Idahoans for midwives.

(5) The three (3) board members who are licensed midwives shall be licensed pursuant to this chapter, shall actively practice midwifery in the state of Idaho for the duration of their appointment and shall have been a practicing midwife in the state of Idaho for at least three (3) years immediately preceding their appointment.

(6) In the event of the death, resignation or removal of any board member before the expiration of the term to which he is appointed, the vacancy shall be filled for the unexpired portion of the term in the same manner as the original appointment.

(7) Board members shall serve at the pleasure of the governor.

(8) The board shall meet at least annually and elect a chairperson, and may hold additional meetings at the call of the chairperson or at the written request of any two (2) members of the board. A majority of the board shall constitute a quorum. The vote of a majority of members present at a meeting wherein a quorum is present shall determine the action of the board.

SECTION 41. That Section 54-5606, Idaho Code, be, and the same is hereby amended to read as follows:

54-5606. BOARD -- ORGANIZATION AND MEETINGS. (1) There is hereby established in the ~~department of self-governing agencies, bureau of occupational licenses,~~ division of occupational and professional licenses the genetic counselors licensing board.

(2) The board shall consist of four (4) members, two (2) of whom shall be fully licensed genetic counselors, one (1) of whom shall be a licensed physician and one (1) of whom shall be a member of the public with an interest in the rights of consumers of genetic counseling services. All board members shall be residents of this state.

(3) Initial appointments to the board shall be for the following terms: one (1) genetic counselor member shall serve a term of one (1) year; one (1) genetic counselor member shall serve a term of two (2) years; and the physician member shall serve a term of three (3) years. Thereafter, the term of office for each member of the board shall be three (3) years.

(4) Board members shall be appointed by the governor and shall serve at the pleasure of the governor.

(5) Each genetic counselor member of the board shall:

(a) Except for the initial appointments, be currently licensed and in good standing to engage in the practice of genetic counseling in this state. The initial genetic counselor members of the board must meet the qualifications for licensure under this act;

(b) At the time of appointment have been actively engaged in the practice of genetic counseling for at least one (1) year of the last five (5) years; and

(c) Be certified by the ABGC, ABMG or NSGC.

(6) In the event of the death, resignation or removal of any board member before the expiration of the term to which the member is appointed, the vacancy shall be filled for the unexpired portion of the term in the same manner as the original appointment.

(7) The board shall meet annually and at such times as deemed necessary and advisable by the chairman, or by a majority of its members, or by the governor. Notice of all meetings shall be given in the manner prescribed by rule. A majority of the board shall constitute a quorum at any meeting or hearing.

(8) Members of the board shall be reimbursed for expenses as provided in section 59-509(b), Idaho Code.

SECTION 42. That Section 54-5806, Idaho Code, be, and the same is hereby amended to read as follows:

54-5806. BOARD -- ORGANIZATION AND MEETINGS. (1) There is hereby established in the ~~department of self-governing agencies, bureau of occupational licenses,~~ division of occupational and professional licenses the barber and cosmetology services licensing board.

(2) The board shall consist of seven (7) members, two (2) of whom shall be licensed cosmetologists, two (2) of whom shall be licensed barbers or barber-stylists, one (1) of whom shall be a licensed electrologist or esthetician, one (1) of whom shall be a currently active school representative and one (1) of whom shall be a member of the public who does not hold a license issued under this chapter. All board members shall be residents of this state.

(3) Initial appointments to the board by the governor shall begin on July 1, 2018, and be for the following terms: two (2) members whose terms shall expire on July 1, 2019; two (2) members whose terms shall expire on July 1, 2020; and three (3) members whose terms shall expire on July 1, 2021.

(4) After their initial appointment, board members shall be appointed for a term of three (3) years by the governor. All board members shall serve at the pleasure of the governor.

(5) In the event of the death, resignation or removal of any board member before the expiration of the term to which the member is appointed, the vacancy shall be filled for the unexpired portion of the term in the same manner as the original appointment.

(6) The board shall meet annually and at such times as deemed necessary and advisable by the chair of the board, by a majority of the board's members or by the governor. Four (4) members of the board shall constitute a quorum, provided at least one (1) board member of the relevant profession is present when any board action is taken that affects the profession, its licensees or its applicants. The board may act by virtue of a majority vote of members present in which a quorum is present.

(7) Members of the board shall be reimbursed for expenses as provided in section 59-509(n), Idaho Code.

SECTION 43. That Section 55-2203, Idaho Code, be, and the same is hereby amended to read as follows:

55-2203. DAMAGE PREVENTION BOARD. (1) The Idaho damage prevention board is hereby created and made a part of the division of building safety occupational and professional licenses. The principal purpose of the board is to reduce damages to underground facilities and to promote safe excavation practices through education directed toward excavators, underground facility owners and the public at large. The board also shall review complaints of alleged violations of this chapter. It shall be the responsibility and duty of the administrator to administer this chapter, and the administrator shall exercise such powers and duties as are reasonably necessary to enforce the provisions of this chapter.

(2) The board shall consist of eleven (11) members, each of whom shall be appointed by and serve at the pleasure of the governor. All members of the board shall be qualified by experience, knowledge and integrity in formulating rules, reviewing complaints referred to it and assessing penalties, and properly performing the functions of the board. Of the eleven (11) members, one (1) each shall represent the interests of the following designated groups and be:

- (a) A city official or a county official;
- (b) An employee or elected official of a highway district;
- (c) An employee of the Idaho public utilities commission;
- (d) An employee or officer of a one-number notification service entity or a member of the Idaho utility coordinating council or similar cooperative statewide nonprofit organization created to coordinate the protection of underground facilities in specific geographic portions of the state;
- (e) An employee or officer of an underground facility owner;
- (f) An employee or officer of an underground pipeline facility owner;
- (g) An employee or officer of a rural underground facility owner;
- (h) An employee or officer of a contractor;
- (i) An employee or officer of a building contractor;
- (j) An employee or officer of an excavator; and
- (k) An employee or owner of an agricultural enterprise, a representative of the agriculture industry, or an employee or an official of a public entity that delivers water for irrigation.

(3) Each member of the board shall serve a term of four (4) years, and such terms shall be staggered. The initial board shall have three (3) members whose terms expire July 1, 2018; four (4) members whose terms expire July 1, 2019; and four (4) members whose terms expire July 1, 2020. Thereafter, each board member shall be appointed for a term of four (4) years. No

member of the board may be appointed to more than two (2) consecutive terms. A member may continue to serve until a successor is appointed. A successor must represent the same designated group that his predecessor was appointed to represent.

(4) The board shall meet within thirty (30) days after the appointment of all its members and thereafter at such other times as may be expedient and necessary for the proper performance of its duties, but the board shall hold at least two (2) regular meetings per year. At the board's first meeting, the members shall elect one (1) of their number to be chairman and one (1) to serve as the vice chairman. The chairman may serve in such capacity for a one (1) year term and may not serve in such capacity for more than two (2) consecutive terms. A majority of the board shall constitute a quorum for the transaction of business. The administrator shall serve as the secretary to the damage prevention board.

(5) Each member of the board shall be compensated as provided by section 59-509(n), Idaho Code.

(6) Each member of the board who is a contractor shall be registered in accordance with chapter 52, title 54, Idaho Code, and shall be in good standing.

(7) The activities of the board shall be funded by a fee established by the board and promulgated in rule. Such fee shall be adopted by the board by no less than eight (8) affirmative votes at a meeting duly called for such purpose at which a quorum is present and shall be imposed uniformly upon all of the underground facility owners required by the provisions of this chapter to participate in and cooperate with the one-number notification service. The fee shall be assessed upon an underground facility owner each time such owner receives notice from a one-number notification service as required by section 55-2205, Idaho Code. The fee is established to defray the expenses of the board and the division in supervising, regulating and administering the provisions of this chapter, and the provision of services hereunder. The fee assessed upon an underground facility owner shall be collected by a one-number notification service and payable to the board in accordance with a schedule and in a manner established by the board in rule. All fees collected by the board shall be deposited with the state treasurer to be credited to the damage prevention board fund established pursuant to section 55-2204, Idaho Code.

(8) The board shall cause educational materials regarding safe digging practices and the dangers of failing to provide notice prior to excavating to be prepared and distributed statewide on an ongoing basis. The board may enter into agreements with other entities for this purpose.

(9) The board, by rule, may adopt or create training programs on all pertinent underground damage prevention topics, which may include, but are not limited to, safe excavation, locating and marking of facilities, determining facility damage, emergency procedures, excavator downtime, pre-marking of intended excavation areas, and procedures used when encountering unmarked facilities, for general use or for remedial training that may be ordered by the board pursuant to section 55-2211, Idaho Code.

(10) The board shall periodically review the effectiveness of the methods used for maintaining effective communications among stakeholders from receipt of an excavation notification until successful completion of the excavation and may adopt, by rule, methods to maintain or improve these communications among stakeholders.

(11) The board shall review complaints alleging violations of this chapter by any party against any other party subject to the jurisdiction of the board involving practices related to public safety and underground facilities damage prevention including, but not limited to, notification procedures, pre-marking of areas to be excavated, marking of facilities, excavation practices, excavator downtime, inaccurate location of facilities, untimely location of facilities, untimely commencement of excavation,

failure of a permitting entity to reinstate a permit in a timely manner, failure of an underground facility owner to participate in a one-number notification service as required, or failure by a party to report damage data when required, and may impose appropriate training requirements or enforcement discipline as authorized by this chapter. The proceedings shall be governed by the provisions of section 55-2211 and chapter 52, title 67, Idaho Code. Any party aggrieved by the action of the board shall be entitled to judicial review thereof in accordance with the provisions of chapter 52, title 67, Idaho Code.

(12) To continually evaluate and improve program effectiveness, the board shall analyze the data collected pursuant to section 55-2208, Idaho Code, including the number of reported damage and downtime events and trends, the causes of such damage and any recommendations to further reduce the number of damage or downtime events annually. The board shall make its analysis publicly available.

(13) The board shall adopt, by rule, a process for reviewing the adequacy of underground facility owners' use of internal performance measures for those locating underground facilities and recommending changes to improve such performance.

(14) The board shall adopt, by rule, a process for reviewing and promoting the use, by all appropriate stakeholders, of improving technologies that may enhance communications, underground facility locating capability and the gathering and analysis of appropriate data.

(15) The board is authorized and directed to promulgate rules consistent with this act for the administration of this chapter and to effectuate the purpose thereof, except as may be limited or prohibited by law and the provisions of this chapter.

(16) The board may exercise such powers and duties as are reasonably necessary to carry out the provisions of this chapter. The board is authorized to, and may among other activities:

(a) Hold meetings and attend or be represented at such meetings, prepare and publish rules pertaining to this section, make investigation or inquiry, conduct hearings, report findings and enter orders in matters over which the board has authority;

(b) Summon witnesses to appear and testify before it on any matter within the provisions of this chapter. No person shall be required to testify outside the county wherein he resides or where his principal place of business is located. A summons to testify shall be issued and served in like manner as a subpoena of a witness issued from the district court, or in any other manner consistent with the procedures of the division of ~~building safety~~ occupational and professional licenses;

(c) Administer oaths and take affirmations of witnesses appearing before the board and appoint competent persons to issue subpoenas, administer oaths and take testimony, and appoint hearing officers;

(d) Impose civil penalties and conduct hearings related thereto for violations of this chapter or the rules of the board;

(e) Enter into agreements with any vendor or contractor to provide services or administer any obligation imposed on the board or the administrator by law, as well as the authority to make expenditures, and to make purchases in accordance with chapter 57, title 67, Idaho Code, to effectuate such agreements; and

(f) Delegate to the administrator the power to perform ministerial functions, conduct investigations, recommend and collect civil penalties on its behalf and appoint hearing officers.

(17) The board may establish by administrative rule the fines to be paid for penalties issued for violations of this chapter. In no case shall the penalty exceed the limits prescribed in section 55-2211, Idaho Code.

(18) The board may receive contributions, gifts and grants on behalf of and in aid of the program. Such contributions, gifts and grants shall be deposited in the damage prevention board fund established pursuant to section 55-2204, Idaho Code.

Approved April 14, 2021

CHAPTER 223
(S.B. No. 1047)

AN ACT

RELATING TO ALCOHOL; AMENDING SECTION 23-948, IDAHO CODE, TO PROVIDE FOR PROPERTY OWNED BY A COUNTY OR CITY, TO REVISE TERMINOLOGY, TO PROVIDE THAT LICENSES ISSUED SHALL REMAIN VALID AND MAY BE TRANSFERRED IN CERTAIN INSTANCES, AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 23-948, Idaho Code, be, and the same is hereby amended to read as follows:

23-948. WATERFRONT RESORTS -- LICENSING EVEN IF OUTSIDE CORPORATE LIMITS OF CITY. (a) Nothing contained in section 23-903, Idaho Code, shall prohibit the issuance of a license to the owner, operator or lessee of a waterfront resort, even if situated outside the incorporated limits of a city. The provisions of section 23-910, Idaho Code, shall apply to licenses issued under the provisions of this section. For the purpose of this section, a waterfront resort shall comprise real property with not less than two hundred (200) feet of lake frontage upon a lake or reservoir as defined by the army corps of engineers of not less than one hundred sixty (160) acres, or river frontage upon a river with at least an average six (6) months' flow of eleven thousand (11,000) cubic feet per second, and shall be open to the public, where people assemble for the purpose of vacationing, boating or fishing, and each waterfront resort must have suitable docks or permanent improved boat-launching facilities not less than sixteen (16) feet in width on property owned or leased by the resort operator or on property contiguous thereto owned by this state; the county; city, if within a city; or the federal government open to the public for recreational uses for the purpose of caring for vacationers, or other recreational users and either of the following:

(1) Hotel or motel accommodations for not less than fifty (50) persons, including a full-service restaurant that serves regularly at least two (2) meals per day to the public during a continuous period of at least four (4) months per year; or

(2) A building of not less than three thousand (3,000) square feet of public use floor space, including a full-service restaurant that serves regularly at least two (2) meals per day to the public during a continuous period of at least four (4) months per year and paved or gravelled parking for fifty (50) automobiles on the operator's owned or leased property and any contiguous property upon which are the docks or boat-launching facilities described above in this subsection.

(b) The fees for licenses granted under the provisions of this section shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code, unless said resort is located within the corporate limits of a city or village, in which case the license fee shall be the same as for other licensees within such corporate limits.

(c) The provisions of this section shall not be construed to interfere with the privileges of the holder of a lake waterfront resort license issued under this section prior to the effective date of this section.

(d) Licenses issued pursuant to this section shall remain valid and may be transferred according to the provisions of this chapter even if the lake, reservoir or river on which the waterfront resort is situated ceases to meet or, subsequent to first issuance or any renewal thereof, is found not to have met the applicable waterflow or lake acreage requirements, but otherwise met and meets upon issuance or renewal all other applicable requirements provided in subsection (a) of this section.

Approved April 14, 2021

CHAPTER 224
(S.B. No. 1056)

AN ACT

RELATING TO THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING SECTION 67-2601, IDAHO CODE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES AND TO REMOVE PROVISIONS REGARDING CERTAIN BOARDS; REPEALING SECTION 67-2601A, IDAHO CODE, RELATING TO THE DIVISION OF BUILDING SAFETY; REPEALING SECTION 67-2602, IDAHO CODE, RELATING TO THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; AMENDING CHAPTER 26, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2602, IDAHO CODE, TO PROVIDE FOR THE ADMINISTRATOR OF THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES; REPEALING SECTION 67-2602A, IDAHO CODE, RELATING TO LICENSE FEES; REPEALING SECTION 67-2603, IDAHO CODE, RELATING TO THE DIVISION ADMINISTRATOR; AMENDING CHAPTER 26, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2603, IDAHO CODE, TO PROVIDE FOR DIVISION EMPLOYEES; REPEALING SECTION 67-2604, IDAHO CODE, RELATING TO AUTHORITY GRANTED BY WRITTEN AGREEMENT; AMENDING CHAPTER 26, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2604, IDAHO CODE, TO PROVIDE DUTIES OF THE DIVISION ADMINISTRATOR; REPEALING SECTION 67-2605, IDAHO CODE, RELATING TO THE OCCUPATIONAL LICENSES ACCOUNT; AMENDING CHAPTER 26, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2605, IDAHO CODE, TO PROVIDE FOR CERTAIN SAFETY INSPECTIONS AND SAFETY ORDERS; REPEALING SECTION 67-2606, IDAHO CODE, RELATING TO THE OCCUPATIONAL LICENSES ACCOUNT; AMENDING CHAPTER 26, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2606, IDAHO CODE, TO PROVIDE A MILITARY EXEMPTION FOR CERTAIN LICENSE FEES; AMENDING CHAPTER 26, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2607, IDAHO CODE, TO PROVIDE FOR EXPENSES OF THE DIVISION ADMINISTRATOR; REPEALING SECTION 67-2608, IDAHO CODE, RELATING TO DIVISION ADMINISTRATOR COOPERATION WITH OTHER AGENCIES; AMENDING CHAPTER 26, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2608, IDAHO CODE, TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND; REPEALING SECTION 67-2609, IDAHO CODE, RELATING TO REGISTRATION OF OCCUPATIONS; AMENDING CHAPTER 26, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2609, IDAHO CODE, TO PROVIDE FOR DIVISION ADMINISTRATOR COOPERATION WITH OTHER AGENCIES; REPEALING SECTION 67-2613, IDAHO CODE, RELATING TO LIMITED APPLICATION OF CHAPTER; AMENDING CHAPTER 26, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2613, IDAHO CODE, TO PROVIDE CLARIFICATION OF DEFINITIONS; AMENDING SECTION 67-2614, IDAHO CODE, TO REVISE PROVISIONS REGARDING RENEWAL AND REINSTATEMENT OF LICENSES; REPEALING SECTION 67-2615, IDAHO CODE, RELATING TO REEXAMINATION AND PAYMENT OF CERTIFICATE FEES; REPEALING SECTION 67-2616, IDAHO CODE, RELATING TO CLARIFICATION OF

DEFINITIONS; AMENDING SECTION 67-1406, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 6-1010, IDAHO CODE, TO REMOVE PROVISIONS REGARDING A CERTAIN FUND AND TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND; AMENDING SECTION 36-2116, IDAHO CODE, TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND, TO REMOVE PROVISIONS REGARDING A CERTAIN ACCOUNT, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 36-2117, IDAHO CODE, TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND, TO REMOVE PROVISIONS REGARDING A CERTAIN ACCOUNT, AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 39-4124, IDAHO CODE, RELATING TO THE IDAHO BUILDING CODE FUND; AMENDING CHAPTER 41, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-4124, IDAHO CODE, TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND; AMENDING SECTION 39-4303, IDAHO CODE, TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND AND TO REMOVE PROVISIONS REGARDING A CERTAIN ACCOUNT; REPEALING SECTION 54-217, IDAHO CODE, RELATING TO THE STATE BOARD OF ACCOUNTANCY ACCOUNT; AMENDING CHAPTER 2, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-217, IDAHO CODE, TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND; AMENDING SECTION 54-308, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 54-313, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; REPEALING SECTION 54-910, IDAHO CODE, RELATING TO THE STATE BOARD OF DENTISTRY FUND; AMENDING CHAPTER 9, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-910, IDAHO CODE, TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND; REPEALING SECTION 54-1015, IDAHO CODE, RELATING TO THE ELECTRICAL BOARD FUND; AMENDING CHAPTER 10, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1015, IDAHO CODE, TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND; REPEALING SECTION 54-1209, IDAHO CODE, RELATING TO RECEIPTS AND DISBURSEMENTS; AMENDING CHAPTER 12, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1209, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING RECEIPTS AND DISBURSEMENTS; REPEALING SECTION 54-1405, IDAHO CODE, RELATING TO THE STATE BOARD OF NURSING ACCOUNT; AMENDING CHAPTER 14, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1405, IDAHO CODE, TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND; AMENDING SECTION 54-1508, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE, TO PROVIDE CORRECT TERMINOLOGY, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1720, IDAHO CODE, TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND, TO REMOVE A PROVISION REGARDING A CERTAIN ACCOUNT, AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 54-1809, IDAHO CODE, RELATING TO THE STATE BOARD OF MEDICINE FUND; AMENDING CHAPTER 18, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1809, IDAHO CODE, TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND; REPEALING SECTION 54-1921, IDAHO CODE, RELATING TO THE PUBLIC WORKS CONTRACTORS LICENSE FUND; AMENDING CHAPTER 19, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1921, IDAHO CODE, TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND; REPEALING SECTION 54-2021, IDAHO CODE, RELATING TO DISPOSITION OF FUNDS; AMENDING CHAPTER 20, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-2021, IDAHO CODE, TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND; AMENDING SECTION 54-2059, IDAHO CODE, TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND AND TO REMOVE PROVISIONS REGARDING A CERTAIN FUND; AMENDING SECTION 54-2065, IDAHO CODE, TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND, TO REMOVE PROVISIONS REGARDING A CERTAIN FUND, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2070, IDAHO CODE, TO REMOVE PROVISIONS REGARDING A CERTAIN FUND, TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND, AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-2105, IDAHO CODE, TO REMOVE PROVISIONS REGARDING A CERTAIN ACCOUNT, TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND, AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 54-2121, IDAHO CODE, RELATING TO THE STATE BOARD OF VETERINARY MEDICINE ACCOUNT; AMENDING CHAPTER 21, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-2121, IDAHO CODE, TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND;

AMENDING SECTION 54-2407, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 54-2630, IDAHO CODE, RELATING TO THE PLUMBING BOARD FUND; AMENDING CHAPTER 26, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-2630, IDAHO CODE, TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND; AMENDING SECTION 54-2911, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 54-3205, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-3317, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 54-3412, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 54-3505, IDAHO CODE, TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND AND TO REMOVE PROVISIONS REGARDING A CERTAIN FUND; AMENDING SECTION 54-3719, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-3915, IDAHO CODE, TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND AND TO REMOVE PROVISIONS REGARDING A CERTAIN ACCOUNT; AMENDING SECTION 54-4113, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-4122, IDAHO CODE, TO REMOVE A CODE REFERENCE, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-4216, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 54-4315, IDAHO CODE, TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND AND TO REMOVE PROVISIONS REGARDING A CERTAIN ACCOUNT; AMENDING SECTION 54-4510, IDAHO CODE, TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND AND TO REMOVE PROVISIONS REGARDING CERTAIN FEES; REPEALING SECTION 54-5024, IDAHO CODE, RELATING TO THE IDAHO HEATING, VENTILATION AND AIR CONDITIONING BOARD FUND; AMENDING CHAPTER 50, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-5024, IDAHO CODE, TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND; AMENDING SECTION 54-5105, IDAHO CODE, TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND AND TO REMOVE PROVISIONS REGARDING A CERTAIN FUND; AMENDING SECTION 54-5308, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-5313, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-5613, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-5822, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 55-2203, IDAHO CODE, TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND, TO REMOVE PROVISIONS REGARDING A CERTAIN FUND, TO PROVIDE FOR THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES, AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 55-2204, IDAHO CODE, RELATING TO THE DAMAGE PREVENTION BOARD FUND; AMENDING SECTION 55-2211, IDAHO CODE, TO REMOVE PROVISIONS REGARDING A CERTAIN FUND, TO PROVIDE FOR THE OCCUPATIONAL LICENSES FUND, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 72-519, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-2601, Idaho Code, be, and the same is hereby amended to read as follows:

67-2601. DEPARTMENT CREATED -- ORGANIZATION. (1) There is hereby created the department of self-governing agencies. The department shall, for the purposes of section 20, article IV, of the constitution of the state of Idaho, be an executive department of the state government.

(2) The department shall consist of the following:

(a) Agricultural commodity commissions: Idaho apple commission, as provided by chapter 36, title 22, Idaho Code; Idaho bean commission, as provided by chapter 29, title 22, Idaho Code; Idaho beef council, as provided by chapter 29, title 25, Idaho Code; Idaho cherry commission,

as provided by chapter 37, title 22, Idaho Code; Idaho dairy products commission, as provided by chapter 31, title 25, Idaho Code; Idaho pea and lentil commission, as provided by chapter 35, title 22, Idaho Code; Idaho potato commission, as provided by chapter 12, title 22, Idaho Code; the Idaho wheat commission, as provided by chapter 33, title 22, Idaho Code; and the Idaho alfalfa and clover seed commission, as provided in chapter 42, title 22, Idaho Code.

(b) ~~Professional and occupational licensing boards:— Idaho state board of accountancy, as provided by chapter 2, title 54, Idaho Code; board of acupuncture, as provided by chapter 47, title 54, Idaho Code; board of architectural examiners, as provided by chapter 3, title 54, Idaho Code; state athletic commission, as provided by chapter 4, title 54, Idaho Code; The board of commissioners of the Idaho state bar, as provided by chapter 4, title 3, Idaho Code; board of chiropractic physicians, as provided by chapter 7, title 54, Idaho Code; Idaho state licensing board of professional counselors and marriage and family therapists, as provided by chapter 34, title 54, Idaho Code; state board of dentistry, as provided by chapter 9, title 54, Idaho Code; state board of denturistry, as provided by chapter 33, title 54, Idaho Code; Idaho board of licensure of professional engineers and professional land surveyors, as provided by chapter 12, title 54, Idaho Code; state board of registration for professional geologists, as provided by chapter 28, title 54, Idaho Code; speech and hearing services licensure board, as provided by chapter 29, title 54, Idaho Code; Idaho physical therapy licensure board, as provided by chapter 22, title 54, Idaho Code; Idaho state board of landscape architects, as provided by chapter 30, title 54, Idaho Code; liquefied petroleum gas safety board, as provided by chapter 53, title 54, Idaho Code; state board of medicine, as provided by chapter 18, title 54, Idaho Code; state board of morticians, as provided by chapter 11, title 54, Idaho Code; board of naturopathic medical examiners, as provided by chapter 51, title 54, Idaho Code; board of nursing, as provided by chapter 14, title 54, Idaho Code; board of examiners of nursing home administrators, as provided by chapter 16, title 54, Idaho Code; state board of optometry, as provided by chapter 15, title 54, Idaho Code; Idaho outfitters and guides licensing board, as provided by chapter 21, title 36, Idaho Code; board of pharmacy, as provided by chapter 17, title 54, Idaho Code; state board of podiatry, as provided by chapter 6, title 54, Idaho Code; Idaho state board of psychologist examiners, as provided by chapter 23, title 54, Idaho Code; Idaho real estate commission, as provided by chapter 20, title 54, Idaho Code; real estate appraiser board, as provided by chapter 41, title 54, Idaho Code; board of social work examiners, as provided by chapter 32, title 54, Idaho Code; the board of veterinary medicine, as provided by chapter 21, title 54, Idaho Code; the board of examiners of residential care facility administrators, as provided by chapter 42, title 54, Idaho Code; the certified shorthand reporters board, as provided by chapter 31, title 54, Idaho Code; the driving businesses licensure board, as provided by chapter 54, title 54, Idaho Code; the board of drinking water and wastewater professionals, as provided by chapter 24, title 54, Idaho Code; the board of midwifery, as provided by chapter 55, title 54, Idaho Code; and the barber and cosmetology services licensing board, as provided by chapter 58, title 54, Idaho Code.~~

(c) The board of examiners, pursuant to section 67-2001, Idaho Code.

~~(d) The division of building safety: building code board, chapter 41, title 39, Idaho Code; electrical board, chapter 10, title 54, Idaho Code; public works contractors license board, chapter 19, title 54, Idaho Code; plumbing board, chapter 26, title 54, Idaho Code; public works construction management, chapter 45, title 54, Idaho Code; the~~

~~heating, ventilation and air conditioning board, chapter 50, title 54, Idaho Code; and factory built structures advisory board, chapter 43, title 39, Idaho Code.~~

(ed) The division of veterans services to be headed by a division administrator who shall be a nonclassified employee exempt from the provisions of chapter 53, title 67, Idaho Code. The administrator of the division shall administer the provisions of chapter 2, title 65, Idaho Code, and chapter 9, title 66, Idaho Code, with the advice of the veterans affairs commission established under chapter 2, title 65, Idaho Code, and shall perform such additional duties as are imposed upon him by law.

(fe) The board of library commissioners, pursuant to section 33-2502, Idaho Code.

(gf) The Idaho state historical society, pursuant to section 67-4123, Idaho Code.

(hg) The state public defense commission, pursuant to section 19-849, Idaho Code.

(3h) The division of occupational and professional licenses, which is hereby created within the department of self-governing agencies.

(43) Notwithstanding any other provision of law to the contrary, the governor shall have the authority to assign entities listed in subsection (2) of this section to divisions, sections, or units in such a manner as will tend to provide an orderly arrangement in the administrative organization of state government.

SECTION 2. That Section 67-2601A, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 67-2602, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Chapter 26, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-2602, Idaho Code, and to read as follows:

67-2602. ADMINISTRATOR OF THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES. The division of occupational and professional licenses shall be headed by an administrator appointed by the governor and who shall serve at the pleasure of the governor.

SECTION 5. That Section 67-2602A, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Section 67-2603, Idaho Code, be, and the same is hereby repealed.

SECTION 7. That Chapter 26, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-2603, Idaho Code, and to read as follows:

67-2603. DIVISION EMPLOYEES. (1) Employees of the division of occupational and professional licenses shall be subject to the provisions set forth in chapter 53, title 67, Idaho Code, except where otherwise specified.

(2) A division administrator shall be considered a nonclassified employee, an executive employee, and an exempt employee.

SECTION 8. That Section 67-2604, Idaho Code, be, and the same is hereby repealed.

SECTION 9. That Chapter 26, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-2604, Idaho Code, and to read as follows:

67-2604. DUTIES OF DIVISION ADMINISTRATOR. (1) In administering the laws regulating professions, trades, and occupations within the division of occupational and professional licenses, 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;

(c) Pass upon the qualifications of applicants for reciprocal licenses, certificates, registrations, and authorities;

(d) Prescribe rules for a fair and impartial method of examination of candidates to exercise the respective profession, trade, or occupation;

(e) Appoint hearing officers, administer oaths, take depositions of witnesses within or without the state in the manner provided by the administrative rules adopted by the division, issue subpoenas, compel the attendance of witnesses, and assess costs and fees incurred in the investigation and prosecution or defense of any certificate holder, licensee, or registrant of the division, in accordance with the provisions of section 12-117(5), Idaho Code, when applicable, the contested case provisions of chapter 52, title 67, Idaho Code, and laws and rules of the agencies within the division;

(f) Assess civil penalties as authorized for a violation of laws or rules, provided that any such civil penalty collected for a violation of laws or rules shall not exceed one thousand dollars (\$1,000), unless otherwise provided by statute or rule, and shall be deposited in the occupational licenses fund;

(g) Implement processes and promulgate rules for the administration of the chapters of those agencies assigned to the division, including but not limited to:

(i) The application, issuance, renewal, cancellation, and reinstatement of licenses, certificates, registrations, and permits, together with assessment of all related fees;

(ii) The terms by which fees may be prorated, if any; and

(iii) Procedures for the replacement of lost or destroyed licenses, certificates, or registrations;

(h) Employ individuals, make expenditures, enter into contracts, require reports, make investigations, travel, and take other actions deemed necessary;

(i) Collect and pay such fees as are required for criminal background checks of applicants, licensees, or registrants;

(j) Provide honoraria as set forth in section 59-509(p), Idaho Code, unless otherwise specified in law or rule;

(k) Require applications to be verified under oath;

(l) Require applicants to provide a clear and legible copy of a government-issued photo identification;

(m) Notwithstanding any other provisions of law, terminate an application that has not had any activity within one (1) year, unless otherwise specified in law or rule;

(n) Issue a license, certificate, permit, or authority only on behalf of an agency that has administrative rules approved by the legislature; and

(o) Implement application processes that provide for clear administration of all licenses, registrations, permits, and certificates, including their status and history.

(2) Notwithstanding any law governing any agency within the division, each board or commission member shall hold office until a successor has been duly appointed and qualified.

(3) The administrator shall administer the following provisions and shall perform such additional duties as are imposed by law: chapter 41, title 39, Idaho Code, relating to the Idaho building code; 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 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 installation of heating, ventilation and air conditioning systems; chapter 80, title 39, Idaho Code, relating to uniform public school building safety; chapter 59, title 33, Idaho Code, relating to Idaho school safety and security; chapter 86, title 39, Idaho Code, relating to elevator safety; and chapter 22, title 55, Idaho Code, relating to underground facilities damage prevention.

(4) For those agencies listed in subsection (3) of this section, the administrator may, in addition to those powers listed in this chapter:

- (a) Issue registrations, licenses, and certificates;
- (b) Charge a fee of seventy-five dollars (\$75.00) for each examination administered, unless a different fee is established in law or rule;
- (c) Conduct hearings on proceedings to discipline, renew, or reinstate licenses, certificates, or authorities of persons exercising the respective profession, trade, or occupation;
- (d) Revoke, suspend, refuse to renew, or take other disciplinary action against such licenses, certifications, or authorities; and
- (e) Assess civil penalties as authorized for a violation of law or rule.

SECTION 10. That Section 67-2605, Idaho Code, be, and the same is hereby repealed.

SECTION 11. That Chapter 26, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-2605, Idaho Code, and to read as follows:

67-2605. ADMINISTRATOR TO PERFORM SAFETY INSPECTIONS AND ISSUE SAFETY ORDERS. (1) The administrator of the division of occupational and professional licenses shall have the authority to perform safety inspections and safety training programs for logging operations in Idaho.

(2) 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, and while on public highways the directors of the Idaho state police and the Idaho transportation department, may issue a safety order to immediately stop the work, close the facility or site, or detain the vehicle where the threat exists. The safety order shall not be rescinded until after the threat has been corrected or removed.

(3) A safety order provided for in this section 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 or the vehicle is detained.

(4) Any person who knowingly fails or refuses to comply with a safety order shall be guilty of a misdemeanor.

(5) The administrator shall promulgate rules adopting minimum logging safety standards and procedures for conducting inspections and safety training.

(6) The directors of the Idaho state police and the Idaho transportation department shall have authority on public highways to stop and inspect vehicles and enforce rules promulgated by the administrator pursuant to this section.

(7) 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 such safety 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 safety 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.

SECTION 12. That Section 67-2606, Idaho Code, be, and the same is hereby repealed.

SECTION 13. That Chapter 26, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-2606, Idaho Code, and to read as follows:

67-2606. LICENSE FEES -- MILITARY EXEMPTION. All persons holding occupational or professional licenses issued by the state of Idaho and who are serving in the armed forces of the United States or its allies, or auxiliary services thereof, and any prisoners of war in custody of the enemy countries of the United States or its allies may be exempt from the payment of any professional or occupational license or renewal fee required by any law of this state for the period during which such persons shall be engaged in the military services of the United States, or its auxiliary branches, or held as prisoners. During such period of military service, or service in the auxiliary branches thereof, or servitude and for six (6) months following the discharge from such military service or auxiliary service, such license shall remain in good standing without the necessity of renewal, and during said period the same shall not be canceled, suspended, or revoked.

SECTION 14. That Chapter 26, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-2607, Idaho Code, and to read as follows:

67-2607. DIVISION ADMINISTRATOR -- EXPENSES. The expenses of the division administrator of the division of occupational and professional licenses and such other administrative, technical, or other personnel as may be deemed necessary for the conduct of the affairs of the division shall be paid from the occupational licenses fund.

SECTION 15. That Section 67-2608, Idaho Code, be, and the same is hereby repealed.

SECTION 16. That Chapter 26, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-2608, Idaho Code, and to read as follows:

67-2608. OCCUPATIONAL LICENSES FUND CREATED -- DISPOSITION OF FEES. There is hereby created in the state treasury the occupational licenses fund. All fees and renewal fees received by the division of occupational and professional licenses for licenses to engage in trades, businesses, occupations, or professions shall be deposited to the credit of the occupational licenses fund. The administrator shall ensure that fees collected by the division are not waived, prorated, transferred, or refunded unless authorized by rule or law of the agency within the division.

SECTION 17. That Section 67-2609, Idaho Code, be, and the same is hereby repealed.

SECTION 18. That Chapter 26, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-2609, Idaho Code, and to read as follows:

67-2609. DIVISION ADMINISTRATOR TO COOPERATE WITH OTHER AGENCIES. In administering the laws regulating professions, trades, and occupations within the division of occupational and professional licenses, the administrator of the division of occupational and professional licenses may share information and otherwise cooperate with government regulatory and law enforcement agencies.

SECTION 19. That Section 67-2613, Idaho Code, be, and the same is hereby repealed.

SECTION 20. That Chapter 26, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-2613, Idaho Code, and to read as follows:

67-2613. CLARIFICATION OF DEFINITIONS. Solely for the purposes of chapter 14, title 67, Idaho Code, the associations created in chapters 36 and 43, title 41, Idaho Code, shall be considered self-governing entities as defined in this chapter, which creates the department of self-governing agencies.

SECTION 21. That Section 67-2614, Idaho Code, be, and the same is hereby amended to read as follows:

67-2614. RENEWAL OR REINSTATEMENT OF LICENSES. (1) ~~All licenses~~ or registrations issued by ~~the boards served by~~ the division of occupational and professional licenses as a prerequisite to engaging in a trade, occupation, or profession shall may be subject to annual renewal and ~~shall~~ may expire and be canceled unless renewed prior to expiration as provided by this section, unless otherwise specified in law or rule. The required fees for ~~annual renewals and reinstatements shall be the amounts set forth in the laws or rules of the governing board relevant agency within the division~~. As used in this section, the term "person," unless otherwise indicated, shall mean a natural person or an entity applying for licensure or registration pursuant to the laws or rules of a board served by an agency within the division.

(2) All natural persons required to procure a license or registration must annually renew the same on or before the birthday of the holder of the license or registration in the manner prescribed in subsection (4) of this section, unless otherwise specified in law or rule. However, the first renewal of the license or registration shall not be required until twelve (12)

months after the holder's next birthday following the initial licensure or registration, unless otherwise specified in law or rule.

(3) All persons required to procure a license or registration for an entity or a facility as a prerequisite for operating a business or place of business in which a trade, occupation, or profession is practiced must annually renew the same on or before the anniversary of the original issue date of the license or registration in the manner prescribed in subsection (4) of this section, unless otherwise specified in law or rule.

(4) Licenses or registrations may be renewed up to six (6) weeks prior to the expiration date, unless otherwise specified in law or rule.

(a) Submission of an approved and completed paper or electronic renewal application prior to expiration is the responsibility of each licensee or registrant. Failure to receive a renewal application or notice shall not excuse failure to comply with renewal requirements.

(b) The renewal application shall be submitted to the division along with the required renewal fee and confirmation of compliance with renewal requirements of the relevant board agency within the division, including but not limited to insurance, completion of any continuing education, and payment of all fines, costs, fees, including attorney's fees, or other amounts that are due and owing ~~to the board~~ or in compliance with a payment arrangement ~~with the board~~.

(5) Applicants, licensees, permittees, and registrants are responsible for keeping their information up to date as follows:

(a) Whenever a change of the applicant's, licensee's, or registrant's name or address of record occurs, the licensee or registrant must immediately notify the division in writing of the change. The division will use the most recent mailing or electronic mail address it has on file for purposes of written communication with a licensee or registrant. It is the responsibility of each applicant, licensee, and registrant to keep the division informed of a current mailing and electronic mail address and any other contact information; and

(b) Unless otherwise specified by law or rule, ~~a~~All substantive changes in professional status must be reported to the division in writing within ninety (90) days. Substantive changes may include but are not limited to:

(i) Any criminal convictions of felonies or misdemeanors other than traffic violations;

(ii) Administrative adjudicative proceedings against the applicant, licensee, or registrant in other states or jurisdictions;

(iii) Adjudicated ethics violations or other sanctions levied against the applicant, licensee, or registrant by a professional association or specialty association; and

(iv) Any civil proceedings adjudicated against the applicant, licensee, or registrant related to his license, registration, or certificate.

(6) Fees for renewal and reinstatement cannot be waived, prorated, transferred, or refunded unless otherwise provided by board specified in law or rule.

(7) If a license, ~~or~~ registration, certificate, or authority is not renewed on or before the expiration date, it shall be immediately canceled by the division following the date of expiration, unless otherwise specified in law or rule. Within five (5) years of the date of expiration, the division may reinstate a license or registration canceled for failure to renew upon receiving documentation of compliance with requirements for timely renewal as set forth in subsection (4) (b) of this section and any other reinstatement requirements of the board division plus payment of a reinstatement fee as provided by board rule of thirty-five dollars (\$35.00) or other amount as specified in law or rule.

(8) (a) When a license, ~~or registration, certificate, or authority~~ has been canceled for a period of more than five (5) years, the person so affected shall be required to make application for a new license, ~~or registration, certificate, or authority~~ to the division. The application shall consist of the following:

(i) All forms and information required of an application for a new license, ~~or registration, certificate, or authority~~; and

(ii) The fee currently required of an applicant for a new license, ~~or registration, certificate, or authority~~.

(b) In addition to the application, the person shall provide all moneys due and owing to the ~~board~~ division or proof that the person is in compliance with a payment arrangement ~~made with the board~~.

(c) The person shall fulfill certain requirements as determined by the ~~board~~ division that demonstrate the person's competency to resume practice in this state. Such requirements may include but are not limited to education, supervised practice, and examination. The ~~board~~ division may consider the person's practice in another jurisdiction in determining the person's competency.

(d) Persons who fulfill the conditions and requirements of this subsection shall be issued a new license, ~~or registration, certificate, or authority~~.

SECTION 22. That Section 67-2615, Idaho Code, be, and the same is hereby repealed.

SECTION 23. That Section 67-2616, Idaho Code, be, and the same is hereby repealed.

SECTION 24. That Section 67-1406, Idaho Code, be, and the same is hereby amended to read as follows:

67-1406. EMPLOYMENT OF ATTORNEYS RESTRICTED -- EXEMPTIONS. Notwithstanding any other provision of law to the contrary, no department, agency, office, officers, board, commission, institution or other state entity shall be represented by or obtain its legal advice from an attorney at law other than the attorney general except as follows:

(1) The legislative and judicial branches of government and the governor may employ attorneys other than those under the supervision of the attorney general, and such attorneys may appear in any court. However, such entities may, upon request, utilize the attorney general's legal services.

(2) Those state entities within the department of self-governing agencies which are enumerated in sections 67-2601(2) (a), ~~67-2601(2) (b) and 67-2601(3) (b), and (h)~~, Idaho Code, and colleges and universities may employ private counsel to advise them and represent them before courts of the state of Idaho. Such entities may also obtain legal services from the attorney general on such terms as the parties may agree.

(3) Whenever the attorney general determines that it is necessary or appropriate in the public interest, the attorney general may authorize contracts for legal services pursuant to the provisions of section 67-1409, Idaho Code.

(4) The provisions of section 67-1401, Idaho Code, shall govern the normal relationship between the attorney general and the state entities in the executive branch of state government. However, if after consultation with the attorney general, the governor determines in his sole judgment, which shall not be subject to judicial review, that counsel assigned to represent or give legal advice to any state entity, other than the lieutenant governor, state controller, state treasurer, secretary of state, attorney general, and the superintendent of public instruction, cannot effectively advocate or pursue the policies of the governor, the governor shall request

that other counsel be provided by the attorney general, and the attorney general shall provide from within the office of the attorney general or obtain from outside the office of the attorney general, depending upon the request of the governor, qualified counsel acceptable to the governor to represent such state entity.

(5) Any separate counsel employed pursuant to the foregoing exceptions shall be compensated with funds appropriated to such state entity, unless such separate counsel shall have been employed at the request or convenience of the attorney general or because of a conflict in representation by the attorney general.

SECTION 25. That Section 6-1010, Idaho Code, be, and the same is hereby amended to read as follows:

6-1010. FEES FOR PANEL MEMBERS. The Idaho state board of medicine shall provide, by uniform policy of the board, for the payment of fees and expenses of members of panels, such payment to be made from the ~~state board of medicine fund created in section 54-1809, Idaho Code~~ occupational licenses fund. Panel members shall serve upon the sworn commitment that all related matters shall be subject to disclosure according to chapter 1, title 74, Idaho Code, and privileged.

SECTION 26. That Section 36-2116, Idaho Code, be, and the same is hereby amended to read as follows:

36-2116. COMPLAINT FOR VIOLATION -- PROSECUTION BY COUNTY ATTORNEY. (a) The board or its designated agent may prefer a complaint before any court of competent jurisdiction in the county where the offense occurred, for a violation of: (i) the provisions of subsections (1), (2), (7), (8), or (9) of section 36-2113, Idaho Code; or (ii) any regulation promulgated pursuant to subsection (d) of section 36-2107, Idaho Code.

(b) Any person convicted of any violation enumerated in subsection (a) of this section 36-2116, Idaho Code, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 36-2117, Idaho Code. Fifty percent (50%) of all fines and forfeitures collected shall be paid to the outfitters and guides licensing board and such moneys so received by the board shall be deposited with the state treasurer and the state treasurer shall credit the same to the ~~Idaho outfitters and guides board account~~ occupational licenses fund and fifty percent (50%) of all fines and forfeitures collected shall be distributed in accordance with section 19-4705, Idaho Code.

SECTION 27. That Section 36-2117, Idaho Code, be, and the same is hereby amended to read as follows:

36-2117. PENALTY FOR VIOLATIONS -- PROSECUTING ATTORNEY TO PROSECUTE. (1) It shall be the duty of the prosecuting attorney of each county in the state to prosecute, in the county where the violation occurs, any person charged with violating the provisions of section 36-2104 or 36-2116, Idaho Code.

(2) Any person who pleads guilty or is found guilty of a first offense for violating the provisions of section 36-2104, Idaho Code, shall be punished by a fine of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), or by imprisonment in the county jail for a term not to exceed one (1) year, if other than a corporation, or by both such fine and imprisonment in the discretion of the court.

(3) Any person who pleads guilty or is found guilty of a second offense for violating the provisions of section 36-2104, Idaho Code, shall be punished by a fine of not less than two thousand five hundred dollars (\$2,500) nor more than five thousand dollars (\$5,000), or by imprisonment in the county jail for a term not to exceed one (1) year, if other than a corporation, or by both such fine and imprisonment in the discretion of the court.

(4) Any person who pleads guilty or is found guilty of a third or subsequent offense for violating the provisions of section 36-2104, Idaho Code, shall be punished by a fine of five thousand dollars (\$5,000), or by imprisonment in the county jail for a term not to exceed one (1) year, if other than a corporation, or by both such fine and imprisonment in the discretion of the court.

(5) Any person who pleads guilty or is found guilty of a violation of section 36-2116, Idaho Code, shall be guilty of a misdemeanor.

(6) All fines and penalties collected for violation of this section, under sentence or judgment of any court, shall be paid over by such court in the same manner as provided for in section 36-2116, Idaho Code. Such court shall also send to the Idaho outfitters and guides licensing board a statement setting forth the title of the court and of the cause for which such moneys were collected, the name and residence of the defendant or defendants, the nature of the offense or offenses and the fine and the sentence or judgment imposed and such moneys so received by the board shall be deposited with the state treasurer and the state treasurer shall credit the same to the ~~Idaho outfitters and guides board account in the dedicated occupational licenses fund~~. The court shall require any person violating the provisions of section 36-2104, Idaho Code, to reimburse the Idaho outfitters and guides licensing board or other city, county, state or federal agency for the employee costs and other costs incurred by the board or agency in the investigation and criminal prosecution of acts for violations of section 36-2104, Idaho Code.

(7) Any person who pleads guilty or is found guilty of violating the provisions of section 36-2104, Idaho Code, may, in the discretion of the court, have their license to hunt or take big game, or to fish, suspended for a period of time as determined by the court.

SECTION 28. That Section 39-4124, Idaho Code, be, and the same is hereby repealed.

SECTION 29. That Chapter 41, 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 39-4124, Idaho Code, and to read as follows:

39-4124. RECEIPTS AND DISBURSEMENTS -- OCCUPATIONAL LICENSES FUND. All fees, charges, and fines received by the board 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 board under the provisions of this chapter shall be a charge against and paid from the fund for such purposes. The funds collected under this chapter shall be immediately available for the administration of this chapter, the provisions of any other law notwithstanding.

SECTION 30. That Section 39-4303, Idaho Code, be, and the same is hereby amended to read as follows:

39-4303. FEES. (1) The following fees shall be paid by the manufacturer of a modular building:

(a) Per building, one (1) building permit, plan review and inspection fee for structural, plumbing, electrical and HVAC, based upon the modular building permit fee schedule as provided in rule, plus ninety dollars (\$90.00) and two and one-half percent (2.5%) of the plumbing, electrical and HVAC installation costs.

(b) The division may charge a one hundred dollar (\$100) insignia fee in instances where building permit fees are not charged for modular buildings.

(2) All fees collected by the division under the provisions of this chapter shall be paid into the ~~factory built structures account, which is hereby created in the dedicated~~ occupational licenses fund. The expenses incurred in administering and enforcing the provisions of this chapter shall be paid from the ~~account~~ fund. The fees set forth in subsection (1) of this section and the modular building permit fees as provided in rule shall be the exclusive fee requirements applicable to modular buildings governed by the provisions of this chapter and shall supersede any program of any political subdivision of the state that sets fee requirements for the same inspections or services.

SECTION 31. That Section 54-217, Idaho Code, be, and the same is hereby repealed.

SECTION 32. That Chapter 2, 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 54-217, Idaho Code, and to read as follows:

54-217. OCCUPATIONAL LICENSES FUND -- RECEIPTS AND DISBURSEMENTS. All fees, charges, and fines received by the board 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 board under the provisions of this chapter shall be a charge against and paid from the fund for such purposes. The funds collected under this chapter shall be immediately available for the administration of this chapter, the provisions of any other law notwithstanding.

SECTION 33. That Section 54-308, Idaho Code, be, and the same is hereby amended to read as follows:

54-308. BOARD -- POWERS. The board shall have, in addition to the powers conferred elsewhere in this chapter, the following powers:

(1) To authorize, by written agreement, the bureau of occupational licenses to act as its agent in its interests and, at its discretion, to contract with the bureau of occupational licenses for those services deemed necessary for the proper administration of this chapter;

(2) To adopt, pursuant to the administrative procedure act, such rules as are necessary for the administration and enforcement of this chapter, including a code of ethics and standards of practice;

(3) To maintain records necessary to carry out its duties under this chapter;

(4) To adopt rules setting the qualifications and fitness of applicants for licensure under this chapter;

(5) To approve continuing education courses and prescribe by rule the minimum number of continuing education hours required of each licensee seeking to obtain or renew an architect's license in the state of Idaho;

(6) To examine for, deny, approve, issue, revoke, suspend or otherwise discipline licenses pursuant to this chapter and to conduct investigations and hearings in connection with such actions, in accordance with the provisions of chapter 52, title 67, Idaho Code;

(7) To establish a procedure for an applicant to request an exemption review for a felony or lesser crime conviction. The applicant shall bear the burden and financial responsibility of providing all evidence, documentation and proof of suitability for licensure required by the board for exemption review;

(8) To administer or have its designee administer oaths or affirmations to witnesses in any proceeding authorized by this chapter;

(9) (a) To engage in discovery as provided in the Idaho rules of civil procedure and chapter 52, title 67, Idaho Code, including, but not limited to, the power to take depositions of witnesses within or without the state in the manner provided by law in civil cases, and to require the attendance of witnesses and the production of books, records and papers as it may desire at any hearing before it of any matter that it has authority to investigate, and for that purpose the board or its designated hearing officer may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records or papers, directed to the sheriff of any county of the state of Idaho where the witness resides or may be found, which shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. The licensed person accused in the proceedings shall have the same right of subpoena upon making application to the board.

(b) The fees and mileage of the witnesses shall be the same as that allowed in the district courts in criminal cases and will be paid from the occupational licenses account fund in the same manner as other expenses of the board are paid.

(c) 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 be interrogated, it shall be the duty of the district court, or any judge thereof, of any county in this state in which the disobedience, neglect or refusal occurs, upon application by the board, to compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court or for refusal to testify; and

(10) To take such action as may be necessary to enforce the provisions of this chapter and to regulate the practice of architecture.

SECTION 34. That Section 54-313, Idaho Code, be, and the same is hereby amended to read as follows:

54-313. FEES. (1) The board shall establish by rule the following fees for licensure under the provisions of this chapter:

- (a) An application fee;
- (b) A license fee;
- (c) An endorsement license fee;
- (d) A temporary license fee;
- (e) An annual renewal fee; and
- (f) A reinstatement fee as provided in section 67-2614, Idaho Code.

(2) All fees received under the provisions of this chapter shall be non-refundable and shall be deposited in the state treasury to the credit of the occupational licenses account fund in the dedicated fund. All costs and expenses incurred by the board for the administration of this chapter shall be a charge against and paid from the account fund, and the funds collected hereunder shall be immediately available for such purposes, the provisions of any other law notwithstanding.

SECTION 35. That Section 54-910, Idaho Code, be, and the same is hereby repealed.

SECTION 36. That Chapter 9, 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 54-910, Idaho Code, and to read as follows:

54-910. OCCUPATIONAL LICENSES FUND -- RECEIPTS AND DISBURSEMENTS. All fees, charges, and fines received by the board 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 board under the provisions of this chapter shall be a charge against and paid from the fund for such purposes. The funds collected under this chapter shall be immediately available for the administration of this chapter, the provisions of any other law notwithstanding.

SECTION 37. That Section 54-1015, Idaho Code, be, and the same is hereby repealed.

SECTION 38. That Chapter 10, 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 54-1015, Idaho Code, and to read as follows:

54-1015. OCCUPATIONAL LICENSES FUND -- RECEIPTS AND DISBURSEMENTS. All fees, charges, and fines received by the board 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 board under the provisions of this chapter shall be a charge against and paid from the fund for such purposes. The funds collected under this chapter shall be immediately available for the administration of this chapter, the provisions of any other law notwithstanding.

SECTION 39. That Section 54-1209, Idaho Code, be, and the same is hereby repealed.

SECTION 40. That Chapter 12, 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 54-1209, Idaho Code, and to read as follows:

54-1209. RECEIPTS AND DISBURSEMENTS -- OCCUPATIONAL LICENSES FUND. (1) The secretary of the board, or assistants thereto as may be designated by the board, shall receive and account for all moneys derived under the provisions of this chapter. All fees received by the board 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 board under the provisions of this chapter shall be a charge against and paid from the fund for such purposes.

(2) The secretary of the board shall be bonded to the state of Idaho in the time, form, and manner prescribed in chapter 8, title 59, Idaho Code.

(3) The administrator of the division of occupational and professional licenses shall carry out the duties set forth in chapter 26, title 67, Idaho Code, and any other administrative duties on behalf of the board.

SECTION 41. That Section 54-1405, Idaho Code, be, and the same is hereby repealed.

SECTION 42. 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 54-1405, Idaho Code, and to read as follows:

54-1405. OCCUPATIONAL LICENSES FUND -- RECEIPTS AND DISBURSEMENTS. All fees, charges, and fines received by the board 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 board under the provisions of this chapter shall be a charge against and paid from the fund for such purposes. The funds collected under this chapter shall be immediately available for the administration of this chapter, the provisions of any other law notwithstanding.

SECTION 43. That Section 54-1508, Idaho Code, be, and the same is hereby amended to read as follows:

54-1508. STATE BOARD OF OPTOMETRY -- ORGANIZATION -- MEETINGS -- EXPENSES. The board of optometry shall meet on or before September 15 of each year and select from its members a chairman and a secretary who shall serve at the pleasure of the board. The secretary shall keep the minutes of the meetings of the board, maintain the files and records of the board, maintain a roster of all persons licensed as optometrists under this act and, on or before October 1 of each year, forward to the bureau of occupational licenses a certified list of those persons who have paid the fees required by this act.

The board of optometry may meet at stated times and places and shall meet upon the call of its chairman or upon written request of a majority of its members. Three (3) members shall constitute a quorum, and a majority of the members present at a meeting at which a quorum is present shall determine the action of the board. Each member of the board shall be notified of any meeting called for any purpose.

Out of the moneys appropriated to the bureau from fees paid under section 54-1506(2), Idaho Code, or otherwise appropriated from fees paid under section 54-1506(2), Idaho Code, and deposited in the occupational license ~~account~~ licenses fund established by section 67-26058, Idaho Code, the members of the board of optometry shall be compensated as provided by section 59-509(n), Idaho Code.

SECTION 44. That Section 54-1720, Idaho Code, be, and the same is hereby amended to read as follows:

54-1720. OTHER DUTIES -- POWERS -- AUTHORITY. The board of pharmacy shall have such other duties, powers, and authority as may be necessary to the enforcement of this chapter and to the enforcement of board rules made pursuant thereto, which shall include, but are not limited to, the following:

(1) The board may join such professional organizations and associations organized exclusively to promote the improvement of the standards of the practice of pharmacy for the protection of the health and welfare of the public and whose activities assist and facilitate the work of the board.

(2) In addition to any statutory requirements, the board may require such surety bonds as it deems necessary to guarantee the performance and discharge of the duties of any officer or employee receiving and disbursing funds.

(3) The executive director of the board shall keep the seal of the board and shall affix it only in such manner as may be prescribed by the board.

(4) (a) The board shall determine by rule the fees to be collected for the issuance and renewal of licenses and registrations.

~~(b) All fees or fines that shall be paid under the provisions of this chapter shall be paid over by the board to the treasurer of the state of Idaho and shall be held by the state treasurer in the pharmacy account, which shall be paid out by the state treasurer upon warrant drawn by the state controller against said account. The state controller is hereby authorized, upon presentation of the proper vouchers of claims against the state, approved by the said board and the state board of examiners, as provided by law, to draw his warrant upon said account. All fees, charges, and fines received by the board 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 board under the provisions of this chapter shall be a charge against and paid from the fund for such purposes. The funds collected under this chapter shall be immediately available for the administration of this chapter, the provisions of any other law notwithstanding.~~

(5) In addition to its annual appropriations, the board may solicit and receive, from parties other than the state, grants, moneys, donations and gifts of tangible and intangible property for any purpose consistent with this act, which may be specified as a condition of any grants, donations or gifts. Such moneys may be solicited or received provided:

(a) Such moneys are awarded for the pursuit of a specific objective which the board is authorized to accomplish by this chapter, or which the board is qualified to accomplish by reason of its jurisdiction or professional expertise;

(b) Such moneys are expended for the pursuit of the objective for which they are awarded;

(c) Activities connected with or occasioned by the expenditures of such moneys do not interfere with or impair the performance of the board's duties and responsibilities and do not conflict with the exercise of the board's powers as specified by this chapter;

(d) Such moneys are kept in a separate, special state account; and

(e) Periodic reports are made to the administrator, division of financial management, concerning the board's receipt and expenditure of such moneys.

(6) The board shall assign to each drug outlet under its jurisdiction a uniform state number.

(7) The board or its authorized representatives shall also have power to investigate and gather evidence concerning alleged violations of the provisions of this chapter or of the rules of the board.

(8) Except as otherwise provided to the contrary, the board shall exercise all of its duties, powers and authority in accordance with the administrative procedure act.

(9) (a) For the purpose of any proceedings held before the board as authorized by law, including the refusal, nonrenewal, revocation or suspension of licenses, registrations or certifications authorized by this chapter, or the imposition of fines or reprimands on persons holding such licenses, certifications or registrations, the board may subpoena witnesses and compel their attendance, and may also at such time require the production of books, papers, documents or other memoranda. In any such proceeding before the board, any member of the board, or its designee, may administer oaths or affirmations to witnesses so appearing.

(b) If any person shall refuse to obey a subpoena so issued, or refuse to testify or produce any books, papers or documents called for by said subpoena, the board may make application to the district court of the county in which the proceeding is held for an order of the court requiring the person to appear before the court and to show cause why the person should not be compelled to testify, to produce such books, papers, memoranda or other documents required by the subpoena, or

otherwise comply with its terms. The application shall set forth the action theretofore taken by the board to compel the attendance of the witness, and the circumstances surrounding the failure of the witness to attend or otherwise comply with the subpoena, together with a brief statement of the reasons why compliance with the subpoena is necessary to the proceeding before the board.

(c) Upon the failure of a person to appear before the court at the time and place designated by it, the court may enter an order without further proceedings requiring the person to comply with the subpoena. Any person failing or refusing to obey such order of the court shall be punished for contempt of court as in other cases provided.

(10) The board may sponsor, participate in or conduct education, research or public service programs or initiatives to carry out the purposes of this chapter.

SECTION 45. That Section 54-1809, Idaho Code, be, and the same is hereby repealed.

SECTION 46. That Chapter 18, 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 54-1809, Idaho Code, and to read as follows:

54-1809. OCCUPATIONAL LICENSES FUND -- RECEIPTS AND DISBURSEMENTS. All fees, charges, and fines received by the board under the provisions of this chapter shall be deposited in the state treasury to the credit of the occupational licenses fund in the dedicated fund, and all costs and expenses incurred by the board under the provisions of this chapter shall be a charge against and paid from the fund for such purposes. The funds collected under this chapter shall be immediately available for the administration of this chapter, the provisions of any other law notwithstanding.

SECTION 47. That Section 54-1921, Idaho Code, be, and the same is hereby repealed.

SECTION 48. That Chapter 19, 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 54-1921, Idaho Code, and to read as follows:

54-1921. OCCUPATIONAL LICENSES FUND -- RECEIPTS AND DISBURSEMENTS. All fees, charges, and fines received by the board 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 board under the provisions of this chapter shall be a charge against and paid from the fund for such purposes. The funds collected under this chapter shall be immediately available for the administration of this chapter, the provisions of any other law notwithstanding.

SECTION 49. That Section 54-2021, Idaho Code, be, and the same is hereby repealed.

SECTION 50. That Chapter 20, 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 54-2021, Idaho Code, and to read as follows:

54-2021. OCCUPATIONAL LICENSES FUND -- RECEIPTS AND DISBURSEMENTS. All fees, charges, and fines received by the board 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 board under the provisions of this chapter shall be a charge against and paid from the fund for such purposes. The funds collected under

this chapter shall be immediately available for the administration of this chapter, the provisions of any other law notwithstanding. Moneys in the fund may be expended by the commission for the promotion and improvement of the real estate profession, the advancement of education and research in the field of real estate, including but not limited to courses sponsored by the commission or in conjunction with any university or college in the state or contracting for a particular research project in the field of real estate, and the promotion and advertising of the state of Idaho.

SECTION 51. That Section 54-2059, Idaho Code, be, and the same is hereby amended to read as follows:

54-2059. DISCIPLINARY POWERS -- REVOCATION, SUSPENSION OR OTHER DISCIPLINARY ACTION. (1) The commission may temporarily suspend or permanently revoke licenses issued under the provisions of this chapter, issue a formal reprimand and impose a civil penalty in an amount not to exceed five thousand dollars (\$5,000) against any licensee who is found to have violated any section of the Idaho Code, the commission's administrative rules or any order of the commission. The executive director may issue informal letters of reprimand to licensees without civil penalty or cost assessment.

(2) The commission may impose a civil penalty in an amount not to exceed five thousand dollars (\$5,000) against any person who is found, through a court or administrative proceeding, to have acted without a license in violation of section 54-2002, Idaho Code. The civil penalty provisions of this section are in addition to and not in lieu of any other actions or criminal penalties for acting as a broker or salesperson without a license which might be imposed by other sections of this chapter or Idaho law.

(3) The commission may also accept, on such conditions as it may prescribe, or reject any offer to voluntarily terminate the license of a person whose activity is under investigation or against whom a formal complaint has been filed.

(4) The assessment of fees and costs incurred in the investigation and prosecution or defense of a licensee or other person under this section shall be governed by the provisions of section 12-117(5), Idaho Code.

(5) If the commission suspends or revokes a license, or imposes a civil penalty, or assesses costs and attorney's fees, the commission may withhold execution of the suspension, revocation or civil penalty, or costs and attorney's fees on such terms and for such time as it may prescribe.

(6) If any amounts assessed against a defendant by final order of the commission become otherwise uncollectible or payment is in default, and only if all the defendant's rights to appeal have passed, the commission may then proceed to district court and seek to enforce collection through judgment and execution.

(7) All civil penalties, costs, and attorney's fees collected by the commission under this chapter shall be deposited in the state treasury to the credit of the ~~special real estate~~ occupational licenses fund established by ~~section 54-2021, Idaho Code~~. Any amounts of civil penalties so collected, deposited and credited shall be expended for exclusive use in developing and delivering Idaho real estate education.

SECTION 52. That Section 54-2065, Idaho Code, be, and the same is hereby amended to read as follows:

54-2065. PENALTY FOR ACTING AS A BROKER OR SALESPERSON WITHOUT LICENSE. Any person acting as a real estate broker or real estate salesperson within the meaning of this chapter without a license as herein provided shall be guilty of a misdemeanor and, upon conviction thereof, if a natural person, be punished by a fine of not to exceed five thousand dollars (\$5,000) or by imprisonment in the county jail for a term not to exceed one (1) year,

or by both such fine and imprisonment in the discretion of the court; or if a limited liability company or corporation, by a fine of not to exceed ten thousand dollars (\$10,000). Additionally, the court may assess a civil penalty against a natural person in an amount not to exceed five thousand dollars (\$5,000), and against a limited liability company or corporation, in an amount not to exceed ten thousand dollars (\$10,000). All civil penalties shall be credited to the special real estate occupational licenses fund.

SECTION 53. That Section 54-2070, Idaho Code, be, and the same is hereby amended to read as follows:

54-2070. AUGMENTATION OF FUND. Upon the original application or renewal of every real estate broker's, associate broker's and salesperson's license for a ~~two-year~~ two (2) year period, the licensee shall pay, in addition to the original or renewal license fee, a fee of twenty dollars (\$20.00). Such additional fees and all education fees charged and collected for tuition or registration, course materials and such other fees involved with the commission education programs shall be paid into the state treasury and credited to the ~~special real estate fund as provided in section 54-2021, Idaho Code~~ occupational licenses fund, except for such funds as are required to maintain a balance of twenty thousand dollars (\$20,000) in the real estate recovery fund as provided for in section 54-2069, Idaho Code.

SECTION 54. 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 and serve at the pleasure of 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. 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 governor may consider recommendations for appointment to the board from the state veterinary medical association, one (1) of the regional veterinary medical associations, and from any individual residing in this state. 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, by providing 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 committee on humane euthanasia 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 meetings law, chapter 2, title 74, 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,~~ occupational licenses fund 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, to review each application for compliance with the licensure and certification requirements, and to 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 the euthanizing of 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 as 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 director 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 that occurred during the licensure or certi-

fication 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 committee on humane euthanasia 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 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.

SECTION 55. That Section 54-2121, Idaho Code, be, and the same is hereby repealed.

SECTION 56. That Chapter 21, 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 54-2121, Idaho Code, and to read as follows:

54-2121. OCCUPATIONAL LICENSES FUND -- RECEIPTS AND DISBURSEMENTS. All fees, charges, and fines received by the board 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 board under the provisions of this chapter shall be a charge against and paid from the fund for such purposes. The funds collected pursuant to this chapter shall be immediately available for the administration of this chapter, the provisions of any other law notwithstanding.

SECTION 57. That Section 54-2407, Idaho Code, be, and the same is hereby amended to read as follows:

54-2407. FEES -- PAYMENT OF COSTS AND EXPENSES. (1) The bureau of occupational licenses shall collect a fee not to exceed one hundred dollars (\$100) for each application, each administration of an examination, each original license, and each annual renewal of any license issued pursuant to this chapter, and shall deposit all fees in the state treasury in accordance with section 67-26058, Idaho Code. The actual fees shall be set by board rule. The bureau shall also collect a fee not greater than that charged by the examination provider when an examination is required as a condition of licensure. All required fees shall not be prorated and are nonrefundable.

(2) All fees received under the provisions of this chapter shall be paid to the bureau of occupational licenses and deposited in the state treasury to the credit of the occupational licenses fund, and all costs and expenses incurred under the provisions of this chapter shall be charged against and paid from said fund.

SECTION 58. That Section 54-2630, Idaho Code, be, and the same is hereby repealed.

SECTION 59. That Chapter 26, 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 54-2630, Idaho Code, and to read as follows:

54-2630. OCCUPATIONAL LICENSES FUND -- RECEIPTS AND DISBURSEMENTS. All fees, charges, and fines received by the board pursuant to 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 board under the provisions of this chapter shall be a charge against and paid from the fund for such purposes. The funds collected pursuant to this chapter shall be immediately available for the administration of this chapter, the provisions of any other law notwithstanding.

SECTION 60. That Section 54-2911, Idaho Code, be, and the same is hereby amended to read as follows:

54-2911. DISPOSITION OF RECEIPTS -- EXPENSES. All moneys received pursuant to the provisions of this chapter shall be deposited to the occupational licenses fund. All expenses incurred pursuant to the provisions of this chapter shall be paid from the occupational licenses fund.

SECTION 61. That Section 54-3205, Idaho Code, be, and the same is hereby amended to read as follows:

54-3205. DISPOSITION OF RECEIPTS -- EXPENSES -- REFUND. All fees received under the provisions of this act shall be deposited in the state treasury to the credit of the occupational licenses fund, and all costs and expenses incurred by the board under the provisions of this act shall be a charge against and paid from said fund for such purposes, and the funds collected hereunder shall be immediately available for the administration of this act, the provisions of any other law notwithstanding. In no instance will the occupational licenses fund be obligated to pay any claims which that in aggregate with claims already paid exceed the income to the occupational licenses fund, which has been derived by the application of this act.

The money paid into the occupational licenses fund is continuously appropriated to the board for expenditure in the manner prescribed herein to defray the expenses of the board and in carrying out and enforcing the provisions of this act.

SECTION 62. That Section 54-3317, Idaho Code, be, and the same is hereby amended to read as follows:

54-3317. DISPOSITION OF RECEIPTS. All moneys received under the provisions of this chapter shall be deposited in the state treasury to the credit of the occupational ~~license account~~ licenses fund and all costs and expenses incurred by the board under the provisions of this chapter shall be a charge against and paid from said ~~account~~ fund. In no instance will the occupational ~~license account~~ licenses fund be obligated to pay any claims which in aggregate with claims already paid exceed the income to the occupational ~~license account~~ licenses fund that has been derived by the application of this chapter.

SECTION 63. That Section 54-3412, Idaho Code, be, and the same is hereby amended to read as follows:

54-3412. DISPOSITION OF RECEIPTS -- EXPENSES. All fees received under the provisions of this chapter shall be deposited in the state treasury to the credit of the occupational license account licenses fund in the dedicated fund and all costs and expenses incurred by the board under the provisions of this chapter shall be a charge against and paid from the account fund for such purposes, and the funds collected hereunder shall be immediately available for the administration of this chapter, the provisions of any other law notwithstanding. In no instance will the occupational license account licenses fund be obligated to pay any claims which in aggregate with claims already paid exceed the income to the occupational license account which licenses fund that has been derived by the application of this chapter.

The money paid into the occupational license account licenses fund is continuously appropriated to the board for expenditure in the manner prescribed herein to defray the expenses of the board and in carrying out and enforcing the provisions of this chapter.

SECTION 64. That Section 54-3505, Idaho Code, be, and the same is hereby amended to read as follows:

54-3505. BOARD OF MEDICINE AND DIETETIC LICENSURE BOARD -- POWERS AND DUTIES -- FUNDS. (1) The board of medicine shall administer, coordinate, and enforce the provisions of this chapter and, for that purpose, may hire such employees as may be necessary. The dietetic licensure board shall make recommendations to, and consult with, the board concerning qualification of applicants for licensure, issuance of licenses, discipline of licensees and rules to be promulgated under this chapter.

(2) The board of medicine may, upon recommendation of the dietetic licensure board, adopt rules pursuant to chapter 52, title 67, Idaho Code, necessary to implement the provisions of this chapter including, but not limited to, rules relating to professional licensure, examination, the establishment of ethical standards of practice, disciplinary proceedings and license suspension, restriction or revocation for persons holding a license to practice dietetics in this state.

(3) The dietetic licensure board shall hold meetings, conduct hearings and keep records and minutes as are necessary to carry out its functions.

(4) All fees received under the provisions of this chapter shall be deposited in the state treasury to the credit of the state board of medicine occupational licenses fund created in section 54-1809, Idaho Code, and all costs and expenses incurred by the board and dietetic licensure board under the provisions of this chapter shall be a charge against and paid from said fund for such purposes, and the funds collected hereunder shall be immediately available for the administration of this chapter. ~~In no instance shall the state board of medicine fund be obligated to pay any claims that, in aggregate with claims already allowed, exceed the income to the state board of medicine fund derived from the application of this chapter.~~ Money paid into the state board of medicine occupational licenses fund pursuant to this chapter is hereby continuously appropriated to the board for expenditure in the manner prescribed herein to defray the expenses of the board and dietetic licensure board in carrying out and enforcing the provisions of this chapter.

SECTION 65. That Section 54-3719, Idaho Code, be, and the same is hereby amended to read as follows:

54-3719. DISPOSITION OF RECEIPTS -- EXPENSES. ~~(1)~~ All fees received under the provisions of this chapter shall be paid to the bureau of occupational licenses and deposited in the state treasury to the credit of the occupational licenses ~~account~~ fund and all costs and expenses incurred under the provisions of this chapter shall be a charge against and paid from said fund.

SECTION 66. That Section 54-3915, Idaho Code, be, and the same is hereby amended to read as follows:

54-3915. BOARD OF MEDICINE -- ADMINISTRATIVE PROVISIONS. (1) The executive director of the Idaho state board of medicine shall serve as the executive director to the board of athletic trainers.

(2) All fees received under the provisions of this chapter shall be deposited in the state treasury to the credit of the ~~state board of medicine account created by section 54-1809, Idaho Code~~ occupational licenses fund, and all costs and expenses incurred by the board and the board of athletic trainers under the provisions of this chapter shall be a charge against and paid from said ~~account~~ fund for such purposes, and the moneys collected hereunder shall be immediately available for the administration of this chapter. In no instance shall the ~~state board of medicine account occupational licenses fund~~ be obligated to pay any claims which in aggregate with claims already allowed exceed the income to the ~~state board of medicine account which occupational licenses fund~~ that has been derived from the application of this chapter.

Money paid into the ~~state board of medicine account~~ occupational licenses fund pursuant to this chapter is hereby continuously appropriated to the board for expenditure in the manner prescribed herein to defray the expenses of the board and the board of athletic trainers in carrying out and enforcing the provisions of this chapter.

SECTION 67. That Section 54-4113, Idaho Code, be, and the same is hereby amended to read as follows:

54-4113. FEES -- ISSUANCE OF LICENSES OR CERTIFICATES. (1) Every person applying for examination or reexamination under this chapter shall pay a fee equal to that charged by the national examining entity. If the result of the examination of any applicant shall be satisfactory to the board, under its rules, it shall issue to such applicant a license or certificate setting forth the fact that he is a state-licensed or state-certified real estate appraiser and authorized to practice his profession in this state. The fee for obtaining a license or certificate under the provisions of this chapter shall be an amount not to exceed five hundred dollars (\$500). The annual fee for renewal or reinstatement of a license or certificate shall be an amount not to exceed five hundred dollars (\$500), which shall be paid to the bureau. The board shall adopt all fees by rule.

(2) In addition to those fees described in this chapter, the board may collect from applicants for licensure or certification and holders of state licenses or certificates of appraisal and remit to the appropriate agency or instrumentality of the federal government any additional fees as may be required to render Idaho state-licensed residential, state-certified residential and general real estate appraisers eligible to perform appraisals in connection with federally related transactions.

(3) In addition to those fees described in this chapter, the board may collect from an applicant for appraisal management company registration and from a registered appraisal management company and remit to the appropriate agency or instrumentality of the federal government any additional fees required to provide appraisal management services in connection with federally related transactions.

(4) The board may collect continuing education provider application fees in an amount not to exceed one hundred dollars (\$100) as established by board rule.

(5) All fees received by the board under the provisions of this chapter shall be deposited in the state treasury to the credit of the occupational licenses account fund in the dedicated fund, and all costs and expenses incurred by the board under the provisions of this chapter shall be a charge against and paid from the account fund for such purposes. The fees collected under this chapter shall be immediately available for the administration of this chapter, the provisions of any other law notwithstanding.

SECTION 68. That Section 54-4122, Idaho Code, be, and the same is hereby amended to read as follows:

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.~~

~~(109) "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.~~

~~(110) "Covered transaction" means any consumer credit transaction secured by the consumer's principal dwelling.~~

~~(121) "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.~~

~~(12) "Division" means the division of occupational and professional licenses.~~

(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 governors 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 only 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.

SECTION 69. That Section 54-4216, Idaho Code, be, and the same is hereby amended to read as follows:

54-4216. DISPOSITION OF RECEIPTS -- EXPENSE -- REFUND. All fees received under the provisions of this chapter shall be deposited in the state treasury to the credit of the occupational ~~license account~~ licenses fund and all costs and expenses incurred by the board under the provisions of this chapter shall be a charge against and paid from the ~~account~~ fund for such purposes, and the funds collected hereunder shall be immediately available for the administration of this chapter, the provisions of other law notwithstanding. In no instance will the occupational ~~license account~~ licenses fund be obligated to pay any claims which in aggregate with claims already paid exceed the income to the occupational ~~license account~~ licenses fund that has been derived by the application of this chapter.

The money paid into the occupational ~~license account~~ licenses fund is continuously appropriated to the board for expenditure in the manner prescribed herein to defray the expenses of the board and in carrying out and enforcing the provisions of this chapter.

SECTION 70. That Section 54-4315, Idaho Code, be, and the same is hereby amended to read as follows:

54-4315. BOARD OF MEDICINE -- ADMINISTRATIVE PROVISIONS. (1) The executive director of the Idaho state board of medicine shall serve as executive director of, but shall not be a member of, the licensure board.

(2) All fees received under the provisions of this chapter shall be deposited in the state treasury to the credit of the ~~state board of medicine account created in section 54-1809, Idaho Code~~ occupational licenses fund, and all costs and expenses incurred by the board and licensure board under the provisions of this chapter shall be a charge against and paid from said ~~account~~ fund for such purposes, and the funds collected hereunder shall be immediately available for the administration of this chapter. In no instance shall the ~~state board of medicine account~~ occupational licenses fund be obligated to pay any claims which in aggregate with claims already allowed exceed the income to the ~~state board of medicine account~~ occupational licenses fund that has been derived from the application of this chapter.

(3) Money paid into the ~~state board of medicine account~~ occupational licenses fund pursuant to this chapter is hereby continuously appropriated to the board for expenditure in the manner prescribed herein to defray the expenses of the board and licensure board in carrying out and enforcing the provisions of this chapter.

SECTION 71. That Section 54-4510, Idaho Code, be, and the same is hereby amended to read as follows:

54-4510. FEES -- DISPOSITION OF FUNDS. (1) The board shall adopt by rule reasonable fees not to exceed two hundred dollars (\$200) for each of the following:

- (a) Initial examination and licensing;
- (b) License renewal;
- (c) Inactive licenses;
- (d) License reinstatement; and
- (e) Issuance, suspension and reinstatement of a certificate of authority.

(2) ~~All fees collected by the administrator shall be paid to the public works contractors license board and deposited in the state treasury, to the credit of the public works contractors license fund and shall be used only for the administration of the provisions of this chapter. All expenses incurred pursuant to the provisions of this chapter shall be paid from the public works contractors license fund. All fees collected by the administrator under the provisions of this chapter are hereby appropriated for one (1) year following the effective date of this chapter and thereafter as appropriated each year by the legislature for carrying out the purposes and objectives of this chapter and to pay all costs and expenses incurred in connection therewith. Such moneys shall be paid out on warrants drawn by the state controller upon presentation of proper vouchers approved by the board. All fees, charges, and fines received by the board 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 board under the provisions of this chapter shall be a charge against and paid from the fund for such purposes. The funds collected under this chapter shall be immediately available for the administration of this chapter, the provisions of any other law notwithstanding.~~

SECTION 72. That Section 54-5024, Idaho Code, be, and the same is hereby repealed.

SECTION 73. That Chapter 50, 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 54-5024, Idaho Code, and to read as follows:

54-5024. OCCUPATIONAL LICENSES FUND -- RECEIPTS AND DISBURSEMENTS. All fees, charges, and fines received by the board 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 board under the provisions of this chapter shall be a charge against and paid from the fund for such purposes. The funds collected under this chapter shall be immediately available for the administration of this chapter, the provisions of any other law notwithstanding.

SECTION 74. That Section 54-5105, Idaho Code, be, and the same is hereby amended to read as follows:

54-5105. BOARD OF MEDICINE AND NATUROPATHIC MEDICAL BOARD -- POWERS AND DUTIES -- FUNDS. (1) The board of medicine shall administer, coordinate, and enforce the provisions of this chapter and, for that purpose, may hire such employees as may be necessary. The naturopathic medical board shall make recommendations to, and consult with, the board concerning qualification of applicants for licensure, issuance of licenses, renewal of licenses, discipline of licensees, and rules to be promulgated under this chapter.

(2) The board of medicine may, upon recommendation of the naturopathic medical board, or by its own motion, adopt rules pursuant to chapter 52, title 67, Idaho Code, necessary to implement the provisions of this chapter, including but not limited to rules relating to professional licensure examination, the establishment of ethical standards of practice, disciplinary proceedings, and license suspension, revocation, or restriction for persons holding a license to practice naturopathic medicine in this state.

(3) The naturopathic medical board shall hold meetings, conduct hearings, and keep records and minutes as are necessary to carry out its functions.

(4) All fees received under the provisions of this chapter shall be deposited in the state treasury to the credit of the ~~state board of medicine occupational licenses fund created in section 54-1809, Idaho Code,~~ and all costs and expenses incurred by the board and naturopathic medical board under the provisions of this chapter shall be a charge against and paid from said fund for such purposes, and the funds collected hereunder shall be immediately available for the administration of this chapter. ~~In no instance shall the state board of medicine fund be obligated to pay any claims which, in aggregate with claims already allowed, exceed the income to the state board of medicine fund that has been derived from the application of this chapter.~~ Money paid into the state board of medicine occupational licenses fund pursuant to this chapter is hereby continuously appropriated to the board for expenditure in the manner prescribed in this section to defray the expenses of the board and naturopathic medical board in carrying out and enforcing the provisions of this chapter.

SECTION 75. That Section 54-5308, Idaho Code, be, and the same is hereby amended to read as follows:

54-5308. FACILITY LICENSE -- EQUIPMENT -- INSPECTIONS -- FEES. (1) The board shall issue a facility license to any person, corporation, partnership, trust, association or other legal entity to operate at specific locations only. No facility license shall be transferable, but an applicant may make application for more than one (1) facility license so as long as all of the requirements are met for each license individually. Except as herein otherwise provided, the following shall be considered minimum requirements for a facility license:

- (a) That the applicant is lawfully entitled to do business within the United States;
- (b) That the applicant has not been refused a license for a facility, or its equivalent, or had a personal or facility license revoked in Idaho or in any other state;
- (c) That the applicant has designated the name under which the facility will operate and has designated a specific location for which the facility license is to be issued;
- (d) For a facility with a storage capacity of four thousand one (4,001) gallons or more, that the applicant has at least one (1) dealer licensed under this chapter who is a resident of the state of Idaho and who is, and will be, responsible for the operation of the facility;
- (e) That the applicant has filed an application and paid the required filing fee;
- (f) That the applicant's facility meets the requirements of the LPG code, except as designated by the board by rule;
- (g) All applications for facility licenses are in writing and contain the name of the applicant, the address, and location of the facility and a description of the type of structure and equipment to be used in the operation of the facility, and such further information as may be required by the board to ensure the safe operation of the facility and its compliance with the requirements of this chapter;

(h) The person responsible for the operation of a facility maintains such records documenting the storage, transportation, dispensation and utilization of LPG as may be required by the laws of the state of Idaho and the rules adopted by the board;

(i) In the event a licensed facility ceases to have a licensed dealer in its employ responsible for operation of the facility, all operation involving practices regulated under this chapter shall cease and written notification of such fact shall be submitted immediately to the board. In the event a licensed facility fails to have a licensed dealer in its employ responsible for the facility within thirty (30) days of said notice, the facility license shall be summarily suspended until a licensed dealer is so employed; and

(j) A certificate issued by an insurance company authorized to do business in the state of Idaho as proof that the applicant has procured and has in effect a general liability policy in the sum of not less than one million dollars (\$1,000,000) single limit.

(2) The board may adopt rules setting forth minimum general standards covering the design, construction, location, installation and operation of systems, equipment, pipes and containers for storing, handling, transporting by tank truck or tank trailer, and using liquefied petroleum gases and specifying the odorization of the gases and the degree thereof.

(3) The board shall adopt inspection rules regarding LPG facilities.

(4) The bureau of occupational licenses shall collect a fee not to exceed five hundred dollars (\$500) for each application, each original license and each annual renewal of any facility license issued pursuant to this chapter and shall deposit all fees in the state treasury in accordance with section 67-26058, Idaho Code. The actual fees shall be set by board rule. Fees paid under the provisions of this chapter shall not be refunded unless otherwise specified herein.

SECTION 76. That Section 54-5313, Idaho Code, be, and the same is hereby amended to read as follows:

54-5313. LICENSES -- RECORDS -- FEES -- PAYMENT OF COSTS AND EXPENSES. (1) The bureau of occupational licenses shall, upon the approval of the board and subject to the provisions of this chapter, register and issue licenses to persons who have been approved by the board in accordance with this chapter. The licenses shall bear on their face the seal of the state and the signature of the chief of the bureau of occupational licenses, and shall be effective until the next birthday of the person being licensed. Licenses so issued shall be renewed annually in accordance with section 67-2614, Idaho Code. The provisions of sections 67-2609 through 67-2614, Idaho Code, shall apply to licenses issued pursuant to this chapter.

(2) The board shall keep and the bureau shall maintain a record of board proceedings and a register of all applications that show:

(a) The name, age, social security number and residency of each applicant;

(b) The date of application;

(c) The place of business of such applicant;

(d) The educational and other qualifications of each applicant;

(e) Whether or not an examination was required;

(f) Whether the applicant was denied;

(g) Whether a license was issued;

(h) The dates of the action by the board;

(i) Compliance with continuing education requirements; and

(j) Such other information as may be deemed necessary by the board.

(3) The bureau of occupational licenses shall collect a fee not to exceed two hundred dollars (\$200) for each application, each original license, and each annual renewal of any license issued pursuant to this chapter.

and shall deposit all fees in the state treasury in accordance with section 67-26058, Idaho Code. The actual fees shall be set by board rule. The bureau shall also collect a fee equal to that charged by the examination provider when an examination is required as a condition of licensing. Fees paid under the provisions of this chapter shall not be refunded unless otherwise specified herein.

(4) All fees received under the provisions of this chapter shall be paid to the bureau of occupational licenses and deposited in the state treasury to the credit of the occupational licenses fund, and all costs and expenses incurred under the provisions of this chapter shall be charged against and paid from said fund.

SECTION 77. That Section 54-5613, Idaho Code, be, and the same is hereby amended to read as follows:

54-5613. FEES. (1) The board shall establish by rule fees for licensure under the provisions of this chapter as follows:

- (a) An application fee not to exceed five hundred dollars (\$500);
- (b) A fee established by rule for an initial full license not to exceed five hundred dollars (\$500);
- (c) A fee established by rule for a provisional license, an endorsement license and ~~for~~ an existing genetic counselor license not to exceed five hundred dollars (\$500);
- (d) The fee established by rule for annual renewal of licenses not to exceed five hundred dollars (\$500); and
- (e) Fees charged pursuant to paragraph (b), (c) or (d) of this subsection shall be in addition to the application fee.

(2) All fees received under the provisions of this chapter shall be non-refundable and shall be deposited in the state treasury to the credit of the occupational license ~~account~~ licenses fund in the dedicated fund, and all costs and expenses incurred by the board under the provisions of this chapter shall be a charge against and paid from the ~~account~~ fund for such purposes, and the funds collected hereunder shall be immediately available for the administration of this chapter, the provisions of any other law notwithstanding.

SECTION 78. That Section 54-5822, Idaho Code, be, and the same is hereby amended to read as follows:

54-5822. FEES. (1) Any fee required pursuant to this chapter, including fees for original licenses, certificates, registrations, permits, annual renewals, and licenses, certificates, and registrations by endorsement, shall be set by board rule.

(2) All fees received by the board under the provisions of this chapter shall be nonrefundable, except as provided by board rule, and shall be deposited in the state treasury to the credit of the occupational license ~~account~~ licenses fund in the dedicated fund, and all costs and expenses incurred by the board under the provisions of this chapter shall be a charge against and paid from the ~~account~~ fund for such purposes. The fees collected under this chapter shall be immediately available for the administration of this chapter, the provisions of any other law notwithstanding.

SECTION 79. That Section 55-2203, Idaho Code, be, and the same is hereby amended to read as follows:

55-2203. DAMAGE PREVENTION BOARD. (1) The Idaho damage prevention board is hereby created and made a part of the division of ~~building safety~~ occupational and professional licenses. The principal purpose of the board is to reduce damages to underground facilities and to promote safe

excavation practices through education directed toward excavators, underground facility owners and the public at large. The board also shall review complaints of alleged violations of this chapter. It shall be the responsibility and duty of the administrator to administer this chapter, and the administrator shall exercise such powers and duties as are reasonably necessary to enforce the provisions of this chapter.

(2) The board shall consist of eleven (11) members, each of whom shall be appointed by and serve at the pleasure of the governor. All members of the board shall be qualified by experience, knowledge and integrity in formulating rules, reviewing complaints referred to it and, assessing penalties, and properly performing the functions of the board. Of the eleven (11) members, one (1) each shall represent the interests of the following designated groups and be:

- (a) A city official or a county official;
- (b) An employee or elected official of a highway district;
- (c) An employee of the Idaho public utilities commission;
- (d) An employee or officer of a one-number notification service entity or a member of the Idaho utility coordinating council or similar cooperative statewide nonprofit organization created to coordinate the protection of underground facilities in specific geographic portions of the state;
- (e) An employee or officer of an underground facility owner;
- (f) An employee or officer of an underground pipeline facility owner;
- (g) An employee or officer of a rural underground facility owner;
- (h) An employee or officer of a contractor;
- (i) An employee or officer of a building contractor;
- (j) An employee or officer of an excavator; and
- (k) An employee or owner of an agricultural enterprise, a representative of the agriculture industry, or an employee or an official of a public entity that delivers water for irrigation.

(3) Each member of the board shall serve a term of four (4) years, and such terms shall be staggered. The initial board shall have three (3) members whose terms expire July 1, 2018; four (4) members whose terms expire July 1, 2019; and four (4) members whose terms expire July 1, 2020. Thereafter, each board member shall be appointed for a term of four (4) years. No member of the board may be appointed to more than two (2) consecutive terms. A member may continue to serve until a successor is appointed. A successor must represent the same designated group that his predecessor was appointed to represent.

(4) The board shall meet within thirty (30) days after the appointment of all its members and thereafter at such other times as may be expedient and necessary for the proper performance of its duties, but the board shall hold at least two (2) regular meetings per year. At the board's first meeting, the members shall elect one (1) of their number to be chairman and one (1) to serve as the vice chairman. The chairman may serve in such capacity for a one (1) year term and may not serve in such capacity for more than two (2) consecutive terms. A majority of the board shall constitute a quorum for the transaction of business. The administrator shall serve as the secretary to the damage prevention board.

(5) Each member of the board shall be compensated as provided by section 59-509(n), Idaho Code.

(6) Each member of the board who is a contractor shall be registered in accordance with chapter 52, title 54, Idaho Code, and shall be in good standing.

(7) The activities of the board shall be funded by a fee established by the board and promulgated in rule. Such fee shall be adopted by the board by no less than eight (8) affirmative votes at a meeting duly called for such purpose at which a quorum is present and shall be imposed uniformly upon all of the underground facility owners required by the provisions of this

chapter to participate in and cooperate with the one-number notification service. The fee shall be assessed upon an underground facility owner each time such owner receives notice from a one-number notification service as required by section 55-2205, Idaho Code. The fee is established to defray the expenses of the board and the division in supervising, regulating and administering the provisions of this chapter, and the provision of services hereunder. The fee assessed upon an underground facility owner shall be collected by a one-number notification service and payable to the board in accordance with a schedule and in a manner established by the board in rule. All fees collected by the board shall be deposited with the state treasurer to be credited to the damage prevention board occupational licenses fund established pursuant to section 55-2204, Idaho Code.

(8) The board shall cause educational materials regarding safe digging practices and the dangers of failing to provide notice prior to excavating to be prepared and distributed statewide on an ongoing basis. The board may enter into agreements with other entities for this purpose.

(9) The board, by rule, may adopt or create training programs on all pertinent underground damage prevention topics, which may include, but are not limited to, safe excavation, locating and marking of facilities, determining facility damage, emergency procedures, excavator downtime, pre-marking of intended excavation areas, and procedures used when encountering unmarked facilities, for general use or for remedial training that may be ordered by the board pursuant to section 55-2211, Idaho Code.

(10) The board shall periodically review the effectiveness of the methods used for maintaining effective communications among stakeholders from receipt of an excavation notification until successful completion of the excavation and may adopt, by rule, methods to maintain or improve these communications among stakeholders.

(11) The board shall review complaints alleging violations of this chapter by any party against any other party subject to the jurisdiction of the board involving practices related to public safety and underground facilities damage prevention, including, but not limited to, notification procedures, pre-marking of areas to be excavated, marking of facilities, excavation practices, excavator downtime, inaccurate location of facilities, untimely location of facilities, untimely commencement of excavation, failure of a permitting entity to reinstate a permit in a timely manner, failure of an underground facility owner to participate in a one-number notification service as required, or failure by a party to report damage data when required, and may impose appropriate training requirements or enforcement discipline as authorized by this chapter. The proceedings shall be governed by the provisions of section 55-2211 and chapter 52, title 67, Idaho Code. Any party aggrieved by the action of the board shall be entitled to judicial review thereof in accordance with the provisions of chapter 52, title 67, Idaho Code.

(12) To continually evaluate and improve program effectiveness, the board shall analyze the data collected pursuant to section 55-2208, Idaho Code, including the number of reported damage and downtime events and trends, the causes of such damage and any recommendations to further reduce the number of damage or downtime events annually. The board shall make its analysis publicly available.

(13) The board shall adopt, by rule, a process for reviewing the adequacy of underground facility owners' use of internal performance measures for those locating underground facilities and recommending changes to improve such performance.

(14) The board shall adopt, by rule, a process for reviewing and promoting the use, by all appropriate stakeholders, of improving technologies that may enhance communications, underground facility locating capability and the gathering and analysis of appropriate data.

(15) The board is authorized and directed to promulgate rules consistent with this act for the administration of this chapter and to effectuate the purpose thereof, except as may be limited or prohibited by law and the provisions of this chapter.

(16) The board may exercise such powers and duties as are reasonably necessary to carry out the provisions of this chapter. The board is authorized to r and may r among other activities:

(a) Hold meetings and attend or be represented at such meetings, prepare and publish rules pertaining to this section, make investigation or inquiry, conduct hearings, report findings and enter orders in matters over which the board has authority;

(b) Summon witnesses to appear and testify before it on any matter within the provisions of this chapter. No person shall be required to testify outside the county wherein he resides or where his principal place of business is located. A summons to testify shall be issued and served in like manner as a subpoena of a witness issued from the district court, or in any other manner consistent with the procedures of the division of building safety;

(c) Administer oaths and take affirmations of witnesses appearing before the board and appoint competent persons to issue subpoenas, administer oaths and take testimony, and appoint hearing officers;

(d) Impose civil penalties and conduct hearings related thereto for violations of this chapter or the rules of the board;

(e) Enter into agreements with any vendor or contractor to provide services or administer any obligation imposed on the board or the administrator by law, as well as the authority to make expenditures, and to make purchases in accordance with chapter 57, title 67, Idaho Code, to effectuate such agreements; and

(f) Delegate to the administrator the power to perform ministerial functions, conduct investigations, recommend and collect civil penalties on its behalf and appoint hearing officers.

(17) The board may establish by administrative rule the fines to be paid for penalties issued for violations of this chapter. In no case shall the penalty exceed the limits prescribed in section 55-2211, Idaho Code.

(18) The board may receive contributions, gifts and grants on behalf of and in aid of the program. Such contributions, gifts and grants shall be deposited in the ~~damage prevention board fund established pursuant to section 55-2204, Idaho Code~~ occupational licenses fund.

SECTION 80. That Section 55-2204, Idaho Code, be, and the same is hereby repealed.

SECTION 81. That Section 55-2211, Idaho Code, be, and the same is hereby amended to read as follows:

55-2211. VIOLATION -- CIVIL PENALTY -- DUTIES OF THE BOARD AND THE ADMINISTRATOR -- OTHER REMEDIES UNIMPAIRED. (1) The damage prevention board established in section 55-2203, Idaho Code, may hear, but may not initiate, contested cases of alleged violations of this chapter involving practices related to underground facilities as set forth in rules by the board. Persons who violate the provisions of this chapter are subject to civil penalties in accordance with this section. Complaints regarding an alleged violation of this chapter may be made by any individual and shall be made to the administrator. Complaints shall include the name and address of the complainant and the alleged violator r and the violation alleged. If the alleged violation involves facility damage or a downtime event, the complaint must be submitted on such forms and contain such information as required by the board in rule. Upon review of the complaint, and any investigation conducted therewith, the administrator shall notify the person making the com-

plaint and the alleged violator, in writing, of the administrator's recommended course of action to the board. The administrator shall recommend that a training course adopted by the board, by rule, be successfully completed for a first violation of this chapter, except that if the complaint is for a first violation of this chapter wherein a residential homeowner or residential tenant excavating on the lot of his residency failed to provide notice as required in section 55-2205, Idaho Code, and caused damage to underground facilities, the board shall direct the administrator to deliver to the violator a written warning and educational materials to prevent a future violation. The administrator may recommend the imposition of a civil penalty in an amount not to exceed one thousand dollars (\$1,000) for a second violation of this chapter and in addition may recommend successful completion of a training course adopted by the board, by rule, and issue a notice of intent to impose such penalty on behalf of the board. If the administrator recommends the imposition of a civil penalty, the violator may pay the fine to the board upon receipt of such notice. If, upon the expiration of twenty-one (21) days, the violator has not responded in writing to the division, the board may impose the penalty provided for in the notice. A violator shall also have the right to contest the imposition of a civil penalty to the board and the opportunity to produce evidence in his behalf. Notice of the time and place of such hearing shall be provided by the board, and such proceeding shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(2) In the event the board determines that a person has violated the provisions of this chapter a subsequent time within eighteen (18) months from an earlier violation, and where facility damage has occurred, the board may impose a civil penalty of not more than five thousand dollars (\$5,000) for each separate violation in accordance with the process described in subsection (1) of this section.

(3) All civil penalties recovered shall be deposited in the ~~underground facility damage prevention board fund and used pursuant to section 55-2204(2), Idaho Code~~ occupational licenses fund.

(4) The penalties provided in this section are in addition to any other remedy at law or equity available to any party subject to the jurisdiction of the damage prevention board established in section 55-2203, Idaho Code.

(5) Unless expressly provided herein, nothing in this chapter eliminates, alters or otherwise impairs common law, statutory or other preexisting rights and duties of persons affected by the provisions of this chapter; nor does anything in this chapter, unless expressly so provided, eliminate, alter or otherwise impair other remedies, state or federal, including those at common law, of an underground facility owner whose facility is damaged; nor do the provisions of this chapter affect any civil remedies for personal injury or property damage except as expressly provided for herein. The court in its discretion may award attorney's fees and costs to the prevailing party.

SECTION 82. That Section 72-519, Idaho Code, be, and the same is hereby amended to read as follows:

72-519. CREATION OF INDUSTRIAL ADMINISTRATION FUND -- PURPOSE. A fund is hereby created to be known as the industrial administration fund for the purpose of providing funds for administering the worker's compensation law by the industrial commission. This fund may also be used to provide funds to the division of building safety for administering logging safety inspections and training under section 67-2601A5, Idaho Code, conducting inspections of state public buildings under section 67-2313, Idaho Code, and inspections of public school facilities under section 39-8008, Idaho Code.

SECTION 83. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 14, 2021

CHAPTER 225
(S.B. No. 1134)

AN ACT

RELATING TO THE STATE DISASTER EMERGENCY ACCOUNT; AMENDING SECTION 46-1005A, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE DISASTER EMERGENCY ACCOUNT AND TO PROVIDE SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 46-1005A, Idaho Code, be, and the same is hereby amended to read as follows:

46-1005A. DISASTER EMERGENCY ACCOUNT. (1) There is hereby created and established in the state treasury a separate account to be known as the disaster emergency account, which account shall be administered by the governor or his designee. The account shall only be used to pay obligations and expenses incurred by the state of Idaho ~~during~~ arising out of a declared state of disaster emergency.

(2) In order to pay said obligations and expenses ~~in coping with~~ arising out of a declared state of disaster emergency the governor shall expend state money as follows:

(a) The governor shall use any moneys available in the disaster emergency account.

(b) In the event the disaster emergency account is inadequate to satisfy said obligations and expenses, the governor is empowered to direct, by executive order, the state controller to transfer moneys from the general ~~account~~ fund, created pursuant to section 67-1205, Idaho Code, to the disaster emergency account, provided that in the governor's judgment sufficient general ~~account~~ fund moneys will be available to support the full general ~~account~~ fund appropriations for the current fiscal year.

(c) In addition to any purpose for which they have previously been created, all funds, excluding constitutionally created funds, or funds limited in their application by the constitution of the state of Idaho, are hereby expressly declared to be appropriated for the purpose of effectuating the purposes of this act. If the moneys made available in paragraphs (a) and (b) above of this subsection are inadequate to meet ~~the above mentioned~~ such obligations and expenses, the governor is empowered to direct the state controller, by executive order, to transfer to the disaster emergency account moneys from any eligible account in order to pay said obligations and expenses; provided, that in the governor's judgment, the moneys transferred are not required to support the current year's appropriation of the affected accounts.

(d) In the event that restitution is made to the state from nonstate sources to reimburse the state for costs incurred in responding to a state of disaster emergency, the governor may use funds from the restitution to reimburse accounts from which funds were drawn to pay for the state's response to the emergency.

(3) In addition to any other purpose for which they might have been appropriated, all moneys made available by this act to be used in the event of a disaster emergency are hereby perpetually appropriated for the purpose set forth in this section according to the limitations established by this section and the constitution of the state of Idaho. In no event may the revenues made available by subsection 46-1005A (2) (b) and (c), Idaho Code, of this section for any and all emergency purposes exceed, during any fiscal year, one percent (1%) of the annual appropriation of general account fund moneys for that fiscal year.

(4) The provisions of this section are hereby declared to be severable. If any provision of this section or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this section.

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

Approved April 14, 2021

CHAPTER 226
(S.B. No. 1176)

AN ACT

RELATING TO THE APPROPRIATION TO THE WOLF DEPREDATION CONTROL BOARD FOR FISCAL YEAR 2022; APPROPRIATING MONEYS TO THE WOLF DEPREDATION CONTROL BOARD FOR FISCAL YEAR 2022.

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

SECTION 1. There is hereby appropriated to the Wolf Depredation Control Board \$392,000 to be expended for operating expenditures from the General Fund for the period July 1, 2021, through June 30, 2022.

Approved April 14, 2021