

GENERAL LAWS
OF THE
STATE OF IDAHO



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THE SECOND REGULAR SESSION OF THE
SIXTY-FOURTH IDAHO LEGISLATURE

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Volume 1

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

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

CHAPTER 1
(H.B. No. 335)

AN ACT

RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1350, IDAHO CODE, TO REVISE THE CALCULATION OF THE TAXABLE WAGE RATE BY REDUCING THE FUND SIZE MULTIPLIER, TO PROVIDE FOR THE ISSUANCE OF ADJUSTED TAXABLE WAGE RATES BY THE DIRECTOR UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE FOR CREDITS FOR OVERPAYMENTS UNDER CERTAIN CIRCUMSTANCES 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 72-1350, Idaho Code, be, and the same is hereby amended to read as follows:

72-1350. TAXABLE WAGE BASE AND TAXABLE WAGE RATES. (1) All remuneration for personal services as defined in section 72-1328, Idaho Code, equal to the average annual wage in covered employment for the penultimate calendar year, rounded to the nearest multiple of one hundred dollars (\$100), or the amount of taxable wage base specified in the federal unemployment tax act, whichever is higher, shall be the taxable wage base for purposes of this chapter.

(2) Prior to December 31 of each year, the director shall determine the taxable wage rates for the following calendar year for all covered employers, except cost reimbursement employers, in accordance with this section. If the desired fund size multiplier set forth in subsection (3) of this section is revised with an effective date that is prior to January 1 of the following year, the director shall issue adjusted taxable wage rates as soon as practicable and in accordance with the revised multiplier's effective date. Employers shall receive a credit against future taxes under this act for any overpayments resulting from tax payments made before the amended taxable wage rates are adjusted.

(3) An average high cost ratio shall be determined by calculating the average of the three (3) highest benefit cost rates in the twenty (20) year period ending with the preceding year. For the purposes of this section, the "benefit cost rate" is the total annual benefits paid, including the state's share of extended benefits but excluding the federal share of extended benefits and cost-reimbursable benefits, divided by the total annual covered wages excluding cost-reimbursable wages. The resulting average high cost ratio is multiplied by the desired fund size multiplier and the result, for the purposes of this section, is referred to as the "average high cost multiple" (AHCM). The desired fund size multiplier shall be eight tenths (0.8) and shall increase to nine tenths (0.9) on and after January 1, 2012; to one (1) on and after January 1, 2013; to one and one-tenth (1.1) on and after January 1, 2014; to one and two-tenths (1.2) on and after January 1, 2015; to one and three-tenths (1.3) on and after January 1, 2016; to one and four-tenths (1.4) on and after January 1, 2017; and to one and five three-tenths (1.53) on and after January 1, 2018.

(4) The fund balance ratio shall be determined by dividing the actual balance of the employment security fund, section 72-1346, Idaho Code, and the reserve fund, section 72-1347A, Idaho Code, on September 30 of the current calendar year by the wages paid by all covered employers in Idaho, except cost reimbursement employers, in the preceding calendar year.

(5) The base tax rate shall be determined as follows:

(a) Divide the fund balance ratio by the AHCM;

(b) Subtract the quotient obtained from the calculation in paragraph (a) of this subsection from the number two (2);

(c) Multiply the remainder obtained from the calculation in paragraph (b) of this subsection by two and one-tenth percent (2.1%). The product obtained from this calculation shall equal the base tax rate, provided however, that the base tax rate shall not be less than six-tenths percent (0.6%) and shall not exceed three and four-tenths percent (3.4%).

(6) The base tax rate calculated in accordance with subsection (5) of this section shall be used to determine the taxable wage rate effective the following calendar year for all covered employers except cost reimbursement employers as provided in subsections (7) and (8) of this section.

(7) Table of Rrate Classes, Tax Factors and Minimum and Maximum Taxable Wage Rates:

Rate Class	Cumulative Taxable Payroll Limits		Tax Factor	Eligible Employers	
	More Than (% of Taxable Payroll)	Equal to or Less Than (% of Taxable Payroll)		Minimum Taxable Wage Rate	Maximum Taxable Wage Rate
1	--	12	0.2857	0.180%	0.960%
2	12	24	0.4762	0.300%	1.600%
3	24	36	0.5714	0.360%	1.920%
4	36	48	0.6667	0.420%	2.240%
5	48	60	0.7619	0.480%	2.560%
6	60	72	0.8571	0.540%	2.880%
7	72	--	0.9524	0.600%	3.200%

Standard-Rated Employers		
Tax Factor	Minimum Taxable Wage Rate	Maximum Taxable Wage Rate
1.000	1.000%	3.4%

Rate Class	Cumulative Taxable Payroll Limits		Tax Factor	Deficit Employers	
	More Than (% of Taxable Payroll)	Equal to or Less Than (% of Taxable Payroll)		Minimum Taxable Wage Rate	Maximum Taxable Wage Rate
-1	--	30	1.7143	1.080%	4.800%
-2	30	50	1.9048	1.200%	5.200%
-3	50	65	2.0952	1.320%	5.600%
-4	65	80	2.2857	1.440%	6.000%
-5	80	95	2.6667	1.680%	6.400%
-6	95	--	2.6667	5.400%	6.800%

(8) Each covered employer, except cost reimbursement employers, will be assigned a taxable wage rate and a contribution rate as follows:

(a) Each employer, except standard-rated employers, will be assigned to one (1) of the rate classes for eligible and deficit employers provided in subsection (7) of this section based upon the employer's experience as determined under the provisions of sections 72-1319, 72-1319A, 72-1351 and 72-1351A, Idaho Code.

(b) For each rate class provided in subsection (7) of this section, the department will multiply the base tax rate determined in accordance with subsection (5) of this section by the tax factor listed for that rate class in the table provided in subsection (7) of this section. The product obtained from this calculation shall be the taxable wage rate for employers assigned to that rate class, provided however, that the taxable wage rate shall not be less than the minimum taxable wage rate assigned to that rate class and shall not exceed the maximum taxable wage rate assigned to that rate class in the table provided in subsection (7) of this section.

(c) For standard-rated employers, the department will multiply the base tax rate determined in accordance with subsection (5) of this section by the tax factor listed for standard-rated employers in the table provided in subsection (7) of this section. The product obtained from this calculation shall be the taxable wage rate for standard-rated employers, provided however, that the taxable wage rate shall not be less than the minimum taxable wage rate assigned to standard-rated employers and shall not exceed the maximum taxable wage rate assigned to standard-rated employers in the table provided in subsection (7) of this section.

(d) Deficit employers who have been assigned a taxable wage rate from deficit rate class ~~six~~ 6 will be assigned contribution rates equal to their taxable wage rate.

(e) All other eligible, standard-rated and deficit employers will be assigned contribution rates equal to ninety-seven percent (97%) of their taxable wage rate. Provided however, that for each calendar year a reserve tax is imposed pursuant to section 72-1347A, Idaho Code, the contribution rates for employers assigned contribution rates pursuant to this paragraph shall be eighty percent (80%) of their taxable wage rate.

(9) Each employer shall be notified of his taxable wage rate as determined for any calendar year pursuant to this section and section 72-1351, Idaho Code. Such determination shall become conclusive and binding upon the employer, unless within fourteen (14) days after notice as provided in section 72-1368(5), Idaho Code, the employer files an application for redetermination, setting forth his reasons therefor. Reconsideration shall be limited to transactions occurring subsequent to any previous determination which has become final. The employer shall be promptly notified of the redetermination, which shall become final unless an appeal is filed within fourteen (14) days after notice as provided in section 72-1368(5), Idaho Code. Proceedings on the appeal shall be in accordance with the provisions of section 72-1361, Idaho Code.

SECTION 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 January 31, 2018

CHAPTER 2
(H.B. No. 378)

AN ACT

RELATING TO THE SECRETARY OF STATE; AMENDING SECTION 67-6623, IDAHO CODE, TO REVISE PROVISIONS REGARDING DUTIES OF THE SECRETARY OF STATE; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 67-6623, Idaho Code, be, and the same is hereby amended to read as follows:

67-6623. DUTIES OF SECRETARY OF STATE. The secretary of state is charged with enforcement of the provisions of this act, and in addition to duties otherwise prescribed herein, it shall be his duty:

(1) To prescribe forms for statements and other information required to be filed by this act, and to furnish such forms and instruction manual to persons required to file such statements and information;

(2) To make statements and other information filed with him available for public inspection and copying during regular office hours, and to make copying facilities available at a charge not to exceed actual cost;

(3) To preserve such statements and other information for a period of four (4) years from date of receipt;

(4) To make investigations with respect to statements filed under the provisions of this act, and with respect to alleged failures to file any statement required under the provisions of this act, and upon complaint by any person with respect to alleged violations of any part of this act;

(5) To report suspected violations of law to the appropriate law enforcement authorities;

(6) To prescribe and publish rules in accordance with the provisions of chapter 52, title 67, Idaho Code, and to take such other actions as may be appropriate to carry out the provisions of this act;

(7) To ~~require and~~ prescribe methods ~~for~~ of the filing of reports in an ~~by~~ electronic format to ensure the prompt filing of reports with county clerks, city clerks and clerks of special districts. The receiving authority may, on an individual basis, grant a hardship waiver and accept a report required by this chapter in another format specified by the secretary of state means.

(8) To require and prescribe methods for the online filing of reports with the secretary of state to ensure prompt publication of reports on the secretary of state's website. The secretary of state may, on an individual basis, grant a hardship waiver and accept a report required by this chapter in another format specified by the secretary of state.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to July 1, 2017.

Approved February 7, 2018

CHAPTER 3
(H.B. No. 355)

AN ACT

RELATING TO THE INTERNAL REVENUE CODE CONFORMITY BILL; AMENDING SECTION 63-3004, IDAHO CODE, TO REVISE THE DEFINITION OF "INTERNAL REVENUE CODE"; AMENDING SECTION 63-3022, IDAHO CODE, TO REVISE PROVISIONS REGARDING ADJUSTMENTS TO TAXABLE INCOME FOR CORPORATIONS; 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. (a) The term "Internal Revenue Code" means, for taxable years beginning on or after the first day of January 2017, the Internal Revenue Code of 1986 of the United States, as amended, and in effect on the first twenty-first day of January December 2017, except that Internal Revenue Code sections 965 and 213 are applied as in effect on December 31, 2017.

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

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

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

SECTION 2. 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. The election shall be made as under section 172 (b) (3) of the Internal Revenue Code. An election under this

subsection must be in the manner prescribed in the rules of the state tax commission and once made is irrevocable for the year in which it is made.

(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, and 965 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.

(p) In the case of an individual, add the amount of a withdrawal from an individual trust account or savings account established pursuant to chapter 54, title 33, Idaho Code, transferred to a qualified tuition program, as defined in section 529 of the Internal Revenue Code, that is operated by a state other than Idaho. The addition provided in this subsection is limited to the amount of the contributions to the Idaho individual trust account or savings account by the account owner that was deducted on the account owner's income tax return for the year of the transfer and the prior taxable 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, 2018.

Approved February 9, 2018

CHAPTER 4
(S.B. No. 1217)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-301, IDAHO CODE, TO AUTHORIZE THE DIRECTOR OF THE IDAHO DEPARTMENT OF FISH AND GAME TO COLLECT CERTAIN CREDIT CARD FEES.

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

SECTION 1. That Section 36-301, Idaho Code, be, and the same is hereby amended to read as follows:

36-301. FORMS OF LICENSES -- PRINTING -- CHARGEABLE TO DIRECTOR. (a) Computerized licensing system. The fish and game commission shall prescribe by rule:

1. The procedures for the issuance of licenses and applications by a computerized licensing system.
2. The criteria for authorizing a person as a license vendor. In developing the criteria, the commission shall consider the cost to the state to install and maintain a license vendor and the public's need to be able to reasonably obtain the necessary license. The criteria should include, but are not limited to, the remoteness of the location; availability of licenses in the area; angling and hunting supplies and services at the location; distance to the next closest license vendor; and the number of licenses issued at the location.

(b) Forms. The forms of the various fishing, hunting and trapping licenses and related applications shall be determined by the director. The director shall authorize printing the licenses and related applications as may be required from time to time and shall supervise the selling of same throughout the state.

(c) Accountability. The director shall manage the issuance of such licenses and be accountable for moneys received therefor. The director is authorized to collect a credit card fee, commensurate with the rate charged to the agency by the credit card vendor, from persons using a credit card to purchase any licenses, related applications, and materials pursuant to section 59-1012, Idaho Code, at fish and game offices and fish and game-sponsored events.

Approved February 12, 2018

CHAPTER 5
(H.B. No. 381)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3022U, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE RELATING TO CHARITABLE CONTRIBUTION DEDUCTION CALCULATIONS FOR PART-YEAR RESIDENTS OR NONRESIDENTS AND TO MAKE A TECHNICAL CORRECTION.

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

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

63-3022U. DEDUCTION FOR CERTAIN CHARITABLE CONTRIBUTIONS. A taxpayer may deduct from taxable income the amount by which the taxpayer must reduce ~~its~~ a charitable contribution deduction under section 170(d)(1)(B) or 170(d)(2)(B) of the Internal Revenue Code. The amount allowed to a part-year resident or nonresident will be determined pursuant to section 63-3026A(46), Idaho Code. This deduction shall not apply to the calculation set forth in section 63-3022L, Idaho Code.

Approved February 15, 2018

CHAPTER 6
(H.B. No. 382)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3069, IDAHO CODE, TO REVISE THE TIME BY WHICH A TAXPAYER MUST NOTIFY THE IDAHO STATE TAX COMMISSION OF A CHANGE IN FEDERAL TAXABLE INCOME OR IN TAX PAID TO ANOTHER STATE AND TO PROVIDE FOR A PENALTY IN THE CASE OF A VIOLATION.

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

SECTION 1. That Section 63-3069, Idaho Code, be, and the same is hereby amended to read as follows:

63-3069. NOTICE OF ADJUSTMENT OF FEDERAL OR STATE TAX LIABILITY. (1) Upon final determination of any deficiency or refund of federal taxes, the taxpayer is required to send written notice shall be immediately sent to the state tax commission by the taxpayer within one hundred twenty (120) days of the final determination.

(2) Upon final determination of any deficiency or refund of income tax due to another state or territory to which the credit for taxes paid another state or territory applies, as provided in section 63-3029, Idaho Code, the taxpayer is required to send written notice shall be immediately sent to the state tax commission by the taxpayer within one hundred twenty (120) days of the final determination.

(3) If the notice required by this section is not sent by the taxpayer to the state tax commission within one hundred twenty (120) days of the final determination, the taxpayer will be subject to the negligence penalty provided by section 63-3046, Idaho Code.

Approved February 15, 2018

CHAPTER 7
(H.B. No. 384)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-30220, IDAHO CODE, TO ALLOW THE USE OF TAX CREDITS AND LOSS CARRYOVERS TO MITIGATE AN INCREASE IN TAX DUE TO AN ADJUSTMENT RELATED TO SECTION 168(k) OF THE INTERNAL REVENUE CODE IN A CLOSED YEAR AND TO MAKE A TECHNICAL CORRECTION.

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; and

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

(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

(5) 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.

Approved February 15, 2018

CHAPTER 8
(H.B. No. 442)

AN ACT

RELATING TO THE APPROPRIATION TO THE IDAHO TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 2018; APPROPRIATING AND TRANSFERRING MONEYS FROM THE GENERAL FUND TO THE STRATEGIC INITIATIVES PROGRAM FUND FOR FISCAL YEAR 2018; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FROM THE STRATEGIC INITIATIVES PROGRAM (STATE) FUND FOR CAPITAL OUTLAY FOR FISCAL YEAR 2018; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FROM THE STRATEGIC INITIATIVES PROGRAM (LOCAL) FUND FOR TRUSTEE AND BENEFIT PAYMENTS FOR FISCAL YEAR 2018; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FROM THE TRANSPORTATION EXPANSION AND CONGESTION MITIGATION PROGRAM FUND FOR CAPITAL OUTLAY FOR FISCAL YEAR 2018; REDUCING THE APPROPRIATION TO THE IDAHO TRANSPORTATION DEPARTMENT FROM THE STATE HIGHWAY (DEDICATED) FUND FOR CAPITAL OUTLAY FOR FISCAL YEAR 2018; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FROM THE STATE HIGHWAY (DEDICATED) FUND FOR OPERATING EXPENDITURES FOR FISCAL YEAR 2018; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated and the State Controller shall transfer \$16,601,700 from the General Fund to the Strategic Initiatives Program (State) Fund and \$11,067,800 from the General Fund to the Strategic Initiatives Program (Local) Fund, as soon as practicable, for the period July 1, 2017, through June 30, 2018.

SECTION 2. In addition to the appropriation made in Section 1, Chapter 328, Laws of 2017, and any other appropriation provided for by law, there is hereby appropriated \$16,601,700 from the Strategic Initiatives Program (State) Fund to the Idaho Transportation Department for the Contract Construction and Right-of-Way Acquisition Program to be expended for capital outlay for the period July 1, 2017, through June 30, 2018.

SECTION 3. In addition to the appropriation made in Section 1, Chapter 328, Laws of 2017, and any other appropriation provided for by law, there is hereby appropriated \$11,067,800 from the Strategic Initiatives Program (Local) Fund to the Idaho Transportation Department for the Contract Construction and Right-of-Way Acquisition Program to be expended for trustee and benefit payments for the period July 1, 2017, through June 30, 2018.

SECTION 4. In addition to the appropriation made in Section 1, Chapter 328, Laws of 2017, and any other appropriation provided for by law, there is hereby appropriated \$21,116,700 from the Transportation Expansion and Congestion Mitigation Program Fund to the Idaho Transportation Department for the Contract Construction and Right-of-Way Acquisition Program to be expended for capital outlay for the period July 1, 2017, through June 30, 2018.

SECTION 5. Notwithstanding any other provision of law to the contrary, the appropriation made to the Idaho Transportation Department for the Contract Construction and Right-of-Way Acquisition Program in Section 1, Chapter 328, Laws of 2017, from the State Highway (Dedicated) Fund is hereby reduced by \$2,900,000 for capital outlay for the period July 1, 2017, through June 30, 2018.

SECTION 6. In addition to the appropriation made in Section 1, Chapter 328, Laws of 2017, and any other appropriation provided for by law, there is hereby appropriated \$1,000,000 from the State Highway (Dedicated) Fund to the Idaho Transportation Department for the Motor Vehicles Program to be expended for operating expenditures for the period July 1, 2017, through June 30, 2018.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 15, 2018

CHAPTER 9
(H.B. No. 441)

AN ACT

RELATING TO THE APPROPRIATION TO THE SOIL AND WATER CONSERVATION COMMISSION FOR FISCAL YEAR 2018; APPROPRIATING ADDITIONAL MONEYS TO THE SOIL AND WATER CONSERVATION COMMISSION FOR FISCAL YEAR 2018; 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 311, Laws of 2017, and any other appropriation provided for by law, there is hereby appropriated to the Soil and Water Conservation Commission \$25,000 from the Federal Grant Fund to be expended for personnel costs for the period July 1, 2017, through June 30, 2018.

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, 2018

CHAPTER 10
(H.B. No. 354)

AN ACT

RELATING TO UNIFORM CONTROLLED SUBSTANCES; AMENDING SECTION 37-2726, IDAHO CODE, TO PROVIDE THAT OPIOID ANTAGONISTS DISPENSED FOR HUMANS SHALL BE FILED WITH THE BOARD ELECTRONICALLY.

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

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

37-2726. FILING PRESCRIPTIONS -- DATABASE. (1) All controlled substances, and opioid antagonists as defined in section 54-1733B, Idaho Code, dispensed for humans shall be filed with the board electronically in a format established by the board or by other method as required by board rule. The board may require the filing of other prescriptions by board rule. The board shall establish by rule the information to be submitted pursuant to the

purposes of this section and the purposes set forth in section 37-2730A, Idaho Code.

(2) The board shall create, operate and maintain a controlled substances prescriptions database containing the information submitted pursuant to subsection (1) of this section to be used for the purposes and subject to the terms, conditions and immunities described in section 37-2730A, Idaho Code. The board 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 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 shall require pharmacists and prescribers, except veterinarians, to annually register with the board to obtain online access to the controlled substances prescriptions database.

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

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

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

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

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

(6) The board shall limit to four (4) the number of delegates that a practitioner or pharmacist may permit to access the database under the practitioner's or pharmacist's supervision.

(7) Any person who knowingly misrepresents to the board that he is a person entitled under subsection (2) of this section to receive information from the controlled substances prescriptions database under the conditions therein provided, and who receives information from the controlled substances prescriptions database resulting from that misrepresentation, shall be guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six (6) months, or by a fine not to exceed two thousand dollars (\$2,000), or both. The foregoing criminal penalty is in addition to, and not in lieu of, any other civil or administrative penalty or sanction authorized by law.

(8) 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.

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

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

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

(12) For purposes of this section, "delegate" means a nurse, medical or office assistant, current student of a health profession if a licensed practitioner or registered graduate of such profession 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 for such access.

CHAPTER 11
(H.B. No. 468)

AN ACT

RELATING TO THE APPROPRIATION TO THE MEDICAL BOARDS FOR FISCAL YEAR 2018;
APPROPRIATING ADDITIONAL MONEYS TO THE MEDICAL BOARDS FOR FISCAL YEAR
2018; 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 245, Laws of 2017, and any other appropriation provided for by law, there is hereby appropriated \$37,300 from the State Regulatory Fund to the Board of Pharmacy within the Medical Boards to be expended for operating expenditures for the period July 1, 2017, through June 30, 2018.

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 20, 2018

CHAPTER 12
(S.B. No. 1237)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL
YEAR 2018; PROVIDING AN APPROPRIATION AND A TRANSFER OF FUNDS TO THE
PEST CONTROL DEFICIENCY FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated and the State Controller shall transfer \$209,700 from the General Fund to the Pest Control Deficiency Fund as soon as practicable. Such moneys shall be used to reimburse costs incurred by the Plant Industries Program in the Department of Agriculture pursuant to Section 22-2019, Idaho Code.

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

Approved February 20, 2018

CHAPTER 13
(S.B. No. 1236)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 2018; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 2018 FOR ORGANIC INSPECTORS; AUTHORIZING ADDITIONAL FULL-TIME EQUIVALENT POSITIONS FOR FISCAL YEAR 2018; 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 320, Laws of 2017, and any other appropriation provided for by law, there is hereby appropriated to the Department of Agriculture for the Agricultural Inspections Program, to be used for organic inspections, the following amounts to be expended for the designated expense classes, from the Agricultural Fees - Organic Food Products Fund for the period July 1, 2017, through June 30, 2018:

FOR:

Personnel Costs	\$139,400
Operating Expenditures	10,300
Capital Outlay	<u>60,200</u>
TOTAL	\$209,900

SECTION 2. FTP AUTHORIZATION. The full-time equivalent position authorization provided to the Department of Agriculture in Section 2, Chapter 320, Laws of 2017, is increased by two (2.00) for the period July 1, 2017, through June 30, 2018.

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 20, 2018

CHAPTER 14
(S.B. No. 1251)

AN ACT

RELATING TO THE APPROPRIATION TO THE INDUSTRIAL COMMISSION FOR FISCAL YEAR 2018; APPROPRIATING ADDITIONAL MONEYS TO THE INDUSTRIAL COMMISSION FOR THE CRIME VICTIMS COMPENSATION PROGRAM FOR FISCAL YEAR 2018; APPROPRIATING ADDITIONAL MONEYS TO THE INDUSTRIAL COMMISSION FOR THE ADJUDICATION PROGRAM FOR FISCAL YEAR 2018; REDUCING THE APPROPRIATION TO THE INDUSTRIAL COMMISSION FOR THE ADJUDICATION PROGRAM FOR FISCAL YEAR 2018; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 289, Laws of 2017, and any other appropriation provided for by law, there is hereby appropriated \$400,000 from the Federal Grant Fund to the Industrial Commission for the Crime Victims Compensation Program to be expended

for trustee and benefit payments for the period July 1, 2017, through June 30, 2018.

SECTION 2. In addition to the appropriation made in Section 1, Chapter 289, Laws of 2017, and any other appropriation provided for by law, there is hereby appropriated \$16,900 from the Industrial Administration Fund to the Industrial Commission for the Adjudication Program to be expended for personnel costs for the period July 1, 2017, through June 30, 2018.

SECTION 3. Notwithstanding any other provision of law to the contrary, the appropriation made to the Industrial Commission for the Adjudication Program in Section 1, Chapter 289, Laws of 2017, from the Industrial Administration Fund is hereby reduced by \$16,900 for operating expenditures for the period July 1, 2017, through June 30, 2018.

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

Approved February 20, 2018

CHAPTER 15
(S.B. No. 1256)

AN ACT

RELATING TO THE APPROPRIATION TO THE REGULATORY BOARDS FOR FISCAL YEAR 2018;
APPROPRIATING ADDITIONAL MONEYS TO THE REGULATORY BOARDS FOR FISCAL
YEAR 2018; 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 315, Laws of 2017, and any other appropriation provided for by law, there is hereby appropriated \$30,000 from the State Regulatory Fund to the Board of Professional Engineers and Land Surveyors Program within the Regulatory Boards to be expended for operating expenditures for the period July 1, 2017, through June 30, 2018.

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 21, 2018

CHAPTER 16
(S.B. No. 1222)

AN ACT

RELATING TO CAREER EDUCATION; PROVIDING LEGISLATIVE INTENT; AMENDING CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1634, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING A QUALITY FUNDING MECHANISM FOR CERTAIN PROGRAMS AND INCENTIVE FUNDING FOR WORKFORCE READINESS; AMENDING CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1634, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING A QUALITY FUNDING MECHANISM FOR CERTAIN PROGRAMS AND INCENTIVE FUNDING FOR WORKFORCE READINESS; PROVIDING A SUNSET DATE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. LEGISLATIVE INTENT. The Legislature recognizes the importance of secondary career and technical education courses and programs as opportunities for students to acquire workforce skills and to demonstrate college and career readiness. These education pathways are critical to building the state's talent pipeline to meet the need for a skilled workforce. To meet these education and workforce needs, the state must build capacity at the secondary level by providing school districts with support to recruit and retain instructors for career and technical education courses, acquire the equipment necessary to deliver those courses and establish student organizations to provide students with workforce experience and guidance on career and postsecondary pathways. The Career and Technical Education Program Quality and Workforce Readiness Incentive Program will encourage school districts to establish, build and maintain career and technical pathways and options for all students.

SECTION 2. That Chapter 16, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1634, Idaho Code, and to read as follows:

33-1634. CAREER TECHNICAL EDUCATION PROGRAM QUALITY AND WORKFORCE READINESS INCENTIVE PROGRAM. (1) It is the ultimate goal of the legislature that every student have access to career technical education courses and programs that lead to workforce readiness certification.

(2) The state board for career technical education shall establish and administer a quality program funding mechanism for high-quality career technical education secondary programs and program technical assistance offered in grades 9 through 12.

(a) Quality program incentive funding will be available to high-performing approved career technical education programs in the areas of business management and marketing, engineering and technology, family and consumer sciences, health sciences, and skilled and technical sciences.

(b) Technical assistance funding will be available to approved career technical education programs in the areas of agriculture and natural resources, business management and marketing, engineering and technology, family and consumer sciences, health sciences, and skilled and technical sciences.

(c) The division of career technical education will develop criteria to evaluate each program and will award funding to those programs that meet or exceed the criteria established by the division for quality program funding and technical assistance funding. Specific criteria will be developed for each type of program. Types of programs will be defined

by the state board for career technical education. All eligible career technical programs will be considered for funding. Eligible programs may not be career technical schools and must meet all eligibility criteria developed by the division of career technical education. The amount of each award will be determined each award cycle by the division of career technical education and will be contingent upon the availability of appropriated funds.

(3) The state board for career technical education may adopt rules to implement the provisions of this section.

SECTION 3. That Chapter 16, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1634, Idaho Code, and to read as follows:

33-1634. CAREER TECHNICAL EDUCATION PROGRAM QUALITY AND WORKFORCE READINESS INCENTIVE PROGRAM. (1) It is the ultimate goal of the legislature that every student have access to career technical education courses and programs that lead to workforce readiness certification.

(2) The state board for career technical education shall establish and administer a quality program funding mechanism for high-quality career technical education secondary programs and program technical assistance offered in grades 9 through 12.

(a) Quality program incentive funding will be available to high-performing approved career technical education programs in the areas of business management and marketing, engineering and technology, family and consumer sciences, health sciences, and skilled and technical sciences.

(b) Technical assistance funding will be available to approved career technical education programs in the areas of agriculture and natural resources, business management and marketing, engineering and technology, family and consumer sciences, health sciences, and skilled and technical sciences.

(c) The division of career technical education will develop criteria to evaluate each program and will award funding to those programs that meet or exceed the criteria established by the division for quality program funding and technical assistance funding. Specific criteria will be developed for each type of program. Types of programs will be defined by the state board for career technical education. All eligible career technical programs will be considered for funding. Eligible programs may not be career technical schools and must meet all eligibility criteria developed by the division of career technical education. The amount of each award will be determined each award cycle by the division of career technical education and will be contingent upon the availability of appropriated funds.

(3) Workforce readiness incentive funding.

(a) Eligible career technical education pathway programs in any career technical education program area may receive workforce readiness incentive funds. Workforce readiness incentive funds will be distributed based on the number of secondary career technical concentrators who have demonstrated workforce readiness at the completion of the career technical education program.

(b) The division of career technical education will develop criteria to evaluate each program and will award funding to those programs that meet or exceed the criteria established by the division for quality program funding and technical assistance funding. Specific criteria will be developed for each type of program. Types of programs will be defined by the state board for career technical education. All eligible career technical programs will be considered for funding. Eligible programs may not be career technical schools and must meet all eligibility crite-

ria developed by the division of career technical education. The amount of each award will be determined each award cycle by the division of career technical education and will be contingent upon the availability of appropriated funds.

(4) The state board for career technical education may adopt rules to implement the provisions of this section.

SECTION 4. The provisions of Section 2 of this act shall be null, void and of no force and effect on and after July 1, 2019.

SECTION 5. The provisions of Section 3 of this act shall be in full force and effect on and after July 1, 2019.

Approved February 22, 2018

CHAPTER 17
(S.B. No. 1210)

AN ACT

RELATING TO HIGHER EDUCATION; AMENDING SECTION 33-107B, IDAHO CODE, TO REVISE PROVISIONS REGARDING RETIREMENT PROGRAMS FOR COMMUNITY COLLEGES; REPEALING SECTIONS 33-2208 THROUGH 33-2210, IDAHO CODE, RELATING TO EASTERN IDAHO TECHNICAL COLLEGE; AMENDING SECTION 33-2211, IDAHO CODE, TO REMOVE A REFERENCE TO EASTERN IDAHO TECHNICAL COLLEGE AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 33-2212, IDAHO CODE, RELATING TO AN ADVISORY COUNCIL FOR EASTERN IDAHO TECHNICAL COLLEGE; AMENDING SECTION 33-3726, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE HIGHER EDUCATION STABILIZATION FUND; AMENDING SECTION 67-5302, IDAHO CODE, TO REMOVE A REFERENCE TO EASTERN IDAHO TECHNICAL COLLEGE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 67-9203, IDAHO CODE, TO REMOVE A REFERENCE TO EASTERN IDAHO TECHNICAL COLLEGE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-107B, Idaho Code, be, and the same is hereby amended to read as follows:

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

(2) The state board of education is hereby authorized to provide for the administration of the optional retirement program and to perform or authorize the performance of such functions as may be necessary for such purposes. The board shall designate the company or companies from which contracts are

to be purchased under the optional retirement program and shall approve the form and contents of such contracts. In making the designation and giving approval, the board shall consider:

- (a) The nature and extent of the rights and benefits to be provided by such contracts for participants and their beneficiaries;
- (b) The relation of such rights and benefits to the amount of contributions to be made;
- (c) The suitability of such rights and benefits to the needs of the participants and the interests of the institutions in the recruitment and retention of staff members; and
- (d) The ability of the designated company to provide such suitable rights and benefits under such contracts.

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

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

(b) Eligible employees who are vested members of the public employee retirement system of Idaho may make a one (1) time irrevocable election to transfer to the optional retirement program. The election shall be made in writing and within sixty (60) days of the date of initial hire or appointment, or one hundred fifty (150) days after the effective date of this chapter, whichever occurs later. The election shall be filed with the administrative officer of the employing institution. The election shall be effective not later than the first day of the second pay period following the date of the election.

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

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

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

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

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

(ii) To the public employee retirement system, an amount equal to three and eighty-three hundredths percent (3.83%) of salaries of members who are participants in the optional retirement program. This amount shall be paid until July 1, 2011, and is in lieu of

amortization payments and withdrawal contributions required pursuant to chapter 13, title 59, Idaho Code; and

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

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

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

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

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

SECTION 2. That Sections 33-2208 through 33-2210, Idaho Code, be, and the same are hereby repealed.

SECTION 3. That Section 33-2211, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

(4) To contract for the acquisition, purchase or repair of buildings, in the manner prescribed for trustees of school districts pursuant to section 33-601, Idaho Code;

(5) To dispose of real and personal property in the manner prescribed for trustees of school districts pursuant to section 33-601, Idaho Code;

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

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

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

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

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

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

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

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

SECTION 4. That Section 33-2212, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 33-3726, Idaho Code, be, and the same is hereby amended to read as follows:

33-3726. HIGHER EDUCATION STABILIZATION FUND. There is hereby created in the state treasury a fund to be known as the higher education stabilization fund. The higher education stabilization fund shall consist of four (4) separate accounts as follows:

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

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

(3) An account designated the surplus stabilization account for Eastern Idaho Technical College of eastern Idaho, North Idaho College, College of Southern Idaho and College of Western Idaho shall consist of

any other moneys made available through legislative transfers, appropriations or otherwise provided by law, or from any other governmental source. All such moneys shall be expended for the maintenance, use and support of ~~Eastern Idaho Technical College of eastern Idaho, North Idaho College, College of Southern Idaho and College of Western Idaho.~~ Such expenditures shall be made subject to legislative appropriation to ~~Eastern Idaho Technical College, through the appropriation to the division of career technical education, and to the community colleges.~~ Distribution of such moneys shall be based upon ~~established practices for the allocation of moneys to Eastern Idaho Technical College through the division of career technical education, or~~ on the state board of education's established practices for the allocation of moneys to the community colleges. Interest earned from the investment of moneys in this surplus stabilization account shall be retained in this surplus stabilization account.

(4) An account designated the community college start-up account shall consist of any other moneys made available through legislative transfers, appropriations or otherwise provided by law, or from any other governmental source. All such moneys shall be expended for the establishment, use and support of a community college in eastern Idaho. Distribution of such moneys shall be based upon voter approval of a community college district and appointment of a local board of trustees by the state board of education. Such expenditures shall be made subject to legislative appropriation to the state board of education. Interest earned from the investment of moneys in this community college start-up account shall be retained in this community college start-up account.

SECTION 6. That Section 67-5302, Idaho Code, be, and the same is hereby amended to read as follows:

67-5302. DEFINITIONS. As used in this chapter, and other applicable sections of the Idaho Code, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context. Such terms and their definitions are:

(1) "Administrative employee" means any person, nonclassified or classified, appointed to a position which that meets the criteria set forth in the federal fair labor standards act, 29 U.S.C. section 201, et seq. Final designation of a classified position as "administrative" within this definition shall be made by the administrator of the division of human resources. Exceptions to this designation which that do not violate the federal fair labor standards act, 29 U.S.C. section 201, et seq., may be made by the administrator.

(2) "Administrator" means the administrator of the division of human resources in the governor's office.

(3) "Appointing authority" means the officer, board, commission, person or group of persons authorized by statute or lawfully delegated authority to make appointments to or employ personnel in any department.

(4) "Class" means a group of positions sufficiently similar as to the duties performed, degree of supervision exercised or required, minimum requirements of training, experience or skill, and other characteristics, that the same title, the same tests of fitness and the same schedule of compensation may be applied to each position in the group.

(5) "Classified officer or employee" means any person appointed to or holding a position in any department of the state of Idaho, which position is subject to the provisions of the merit examination, selection, retention, promotion and dismissal requirements of chapter 53, title 67, Idaho Code.

(6) "Commission" means the Idaho personnel commission.

(7) "Compensatory time" means approved time off from duty provided in compensation for overtime hours worked.

(8) "Computer worker" means any person, nonclassified or classified, appointed to a position which that meets the criteria set forth in the federal fair labor standards act, 29 U.S.C. section 2017 et seq. Final designation of a classified position as "computer worker" within this definition shall be made by the administrator of the division of human resources. Exceptions to this designation that do not violate the federal fair labor standards act, 29 U.S.C. section 2017 et seq., may be made by the administrator.

(9) "Department" means any department, agency, institution or office of the state of Idaho.

(10) "Disabled veteran" is as defined in section 65-502, Idaho Code.

(11) "Eligible" means a person who has been determined to be qualified for a classified position and whose name has been placed on the register of eligibles.

(12) "Executive employee" means any person, nonclassified or classified, appointed to a position equivalent to a bureau chief or above as provided in section 67-2402, Idaho Code, or any employee meeting the following criteria:

(a) An individual whose primary duty is management of a department, division or bureau; and

(b) Who customarily and regularly directs the work of at least two (2) or more other employees therein; and

(c) Who has the authority to hire and fire, or to recommend hiring and firing; or whose recommendation on these and other actions affecting employees is given particular weight; and

(d) Who customarily and regularly exercises discretionary powers; and

(e) Who is classified to a position allocated to the pay grade equivalent to two hundred sixty (260) points or higher pursuant to the rating system established by rule.

(f) Final designation of a classified position as "executive" in this definition shall be made by the administrator. Exceptions to this designation which that do not violate the federal fair labor standards act, 29 U.S.C. section 2017 et seq., may be made by the administrator.

(13) "Exempt employee" means any employee, classified or nonclassified, who is determined to be an executive, professional or administrative employee as defined herein, or who qualifies for any other exemption from cash compensation for overtime under applicable federal law. Final designation of a classified position as exempt shall be made by the administrator.

(14) "Full-time employee" means any employee working a forty (40) hour ~~work-week~~ workweek.

(15) "Holiday" means the following:

January 1 (New Year's Day);

Third Monday in January (Martin Luther King, Jr.-Idaho Human Rights Day);

Third Monday in February (Washington's Birthday);

Last Monday in May (Memorial Day);

July 4 (Independence Day);

First Monday in September (Labor Day);

Second Monday in October (Columbus Day);

November 11 (Veterans Day);

Fourth Thursday in November (Thanksgiving);

December 25 (Christmas).

In addition, the term "holiday" shall mean any day so designated by the president of the United States or the governor of this state for a public fast, thanksgiving or holiday.

In the event that a holiday occurs on a Saturday, the preceding Friday shall be a holiday, and if the holiday falls on a Sunday, the following Monday shall be a holiday.

A holiday is a day of exemption from work granted to nonexecutive employees during which said employees shall be compensated as if they actually

worked. Employees classified as executive exempt are entitled to ten (10) paid holidays per year. If such an employee works on one (1) of the official holidays listed in this subsection, then such employee may take an alternative day off but shall not receive additional compensation.

(16) "Hours worked" means those hours actually spent in the performance of the employee's job on any day including holidays and shall not include vacation or sick leave or other approved leave of absence.

(17) "Nonclassified employee" means any person appointed to or holding a position in any department of the state of Idaho, which position is exempted from the provisions of chapter 53, title 67, Idaho Code, as provided for in section 67-5303, Idaho Code.

(18) "Normal work-week workweek" means any forty (40) hours worked during a particular one hundred sixty-eight (168) hour period as previously established by the employee's appointing authority.

(19) "Open competitive examination" means an examination which that may be taken by qualified applicants to compete on an equal basis for listing on the register of eligibles.

(20) "Overtime work" means time worked on holidays and time worked in excess of forty (40) hours in a period of one hundred sixty-eight (168) consecutive hours, except that in the case of those employees engaged in law enforcement, correctional and fire protection activities characterized by irregular shift work schedules, time worked in excess of one hundred sixty (160) hours in a period of twenty-eight (28) consecutive days shall constitute overtime work within the meaning of this chapter. Such employees may also be paid overtime for specific hours worked in addition to their normal schedules upon emergency declaration by the governor or with the approval of the appointing authority and the board of examiners.

(21) "Participating department" means any department of the state of Idaho which that employs persons in classified positions subject to the merit examination, selection, retention, promotion and dismissal requirements of this chapter.

(22) "Part-time employee" means any employee whose usually scheduled work is less fewer than forty (40) hours in a period of one hundred sixty-eight (168) consecutive hours, and who shall not be entitled to sick leave accruals provided in section 67-5333, Idaho Code, vacation leave provided in section 67-5334, Idaho Code, nor holiday pay as defined in subsection (15) of this section, unless contributions are being made to the public employee retirement system in accordance with chapter 13, title 59, Idaho Code, and rules promulgated by the public employee retirement system board.

(23) "Personnel system" means the procedure for administering employees in accordance with this chapter.

(24) "Political office" means a public office for which partisan politics is a basis for nomination, election or appointment.

(25) "Political organization" means a party that sponsors candidates for election to political office.

(26) "Position" means a group of duties and responsibilities legally assigned or delegated by one (1) or more appointing authorities and requiring the employment of one (1) person.

(27) "Professional employee" means any person, nonclassified or classified, appointed to a position that meets the criteria set forth in the federal fair labor standards act, 29 U.S.C. section 201~~7~~ et seq. Final designation of a classified position as "professional" within this definition shall be made by the administrator. Exceptions to this designation that do not violate the federal fair labor standards act, 29 U.S.C. section 201~~7~~ et seq., may be made by the administrator.

(28) "Provisional appointment" means appointment to a classified position pending the establishment of a register for such position, and employment shall not be continued in this status longer than thirty (30) days after establishment of a register.

(29) "Public education entity" means community colleges, public school districts, public charter schools and the Idaho digital learning academy.

(30) "Qualifying examination" means an examination or evaluation given to a selected person to determine eligibility for reclassification or appointment to a position in a classification.

(31) "Register" means a list of names of persons who have been determined to be eligible for employment in a classified position as determined on the basis of examination and merit factors as established by the administrator.

(32) "Seasonal appointment" means an appointment to a position that is permanent in nature, but that has intermittent work periods throughout the year.

(33) "Service rating" means a recorded evaluation of work performance and promotional potential of an employee by his supervisor.

(34) "State educational agency" means the following state agencies and educational institutions supervised by the Idaho state board of education:

- (a) Boise state university;
- (b) Idaho state university;
- (c) University of Idaho;
- (d) Lewis-Clark state college;
- (e) ~~Eastern Idaho technical college;~~
- ~~(f) Idaho public television;~~
- ~~(g) The division of vocational rehabilitation;~~
- ~~(h) The division of career technical education;~~
- ~~(i) The office of the state board of education; and~~
- ~~(j) The department of education.~~

(35) "Temporary appointment" means appointment to a position that is not permanent in nature, and in which employment will not exceed one thousand three hundred eighty-five (1,385) hours during any twelve (12) month period. No person holding a temporary appointment may work in excess of one thousand three hundred eighty-five (1,385) hours during a twelve (12) month period of time for any one (1) department, except upon petition by the appointing authority of the department of lands that demonstrates good cause, the administrator of the division of human resources may extend the one thousand three hundred eighty-five (1,385) hour limit for employees of the department who are required to perform fire suppression activities.

(36) "Vacation leave" means a period of exemption from work granted to employees during which time said employees shall be compensated. The term shall not include compensatory time for overtime work.

(37) "Veteran" is as defined in section 65-502, Idaho Code.

SECTION 7. That Section 67-9203, Idaho Code, be, and the same is hereby amended to read as follows:

67-9203. DEFINITIONS. As used in this chapter:

- (1) "Acquisition" means the process of procuring property.
- (2) "Administrator" means the administrator of the division of purchasing as created by section 67-9204, Idaho Code.
- (3) "Agency" means all officers, departments, divisions, bureaus, boards, commissions and institutions of the state, including the public utilities commission, but excluding:
 - (a) The legislative and judicial branches of government;
 - (b) The governor, lieutenant governor, secretary of state, state controller, state treasurer, attorney general and superintendent of public instruction; and
 - (c) A state institution of higher education that complies with the provisions of section 67-9225, Idaho Code.
- (4) "Bid" means a written offer to perform a contract to sell or otherwise supply property in response to a solicitation.

(5) "Bidder" means a vendor who has submitted a bid on property to be acquired by the state.

(6) "Contract" means an agreement for the acquisition of property, including a purchase order.

(7) "Contractor" means a vendor who has been awarded a contract.

(8) "Director" means the director of the department of administration as created by section 67-5701, Idaho Code.

(9) "Lowest responsible bidder" means the responsible bidder whose bid reflects the lowest acquisition price to be paid by the state, except that when specifications are valued or comparative performance evaluations are conducted, the results of such examinations and the relative score of valued specifications will be weighed, as set out in the specifications, in determining the lowest acquisition price.

(10) "Open contract" means a contract awarded by the state through the division of purchasing as a result of a competitive solicitation to one (1) or more vendors who have agreed to allow all agencies to procure specified property under the terms and conditions set forth in the contract.

(11) "Procure" means to obtain property for state use in a manner other than by gift including, but not limited to, purchase, lease or rent.

(12) "Property" means goods, services, parts, supplies and equipment, both tangible and intangible, including, but not limited to, designs, plans, programs, systems, techniques and any rights or interests in such property.

(13) "Sole source" means the only vendor from whom specific property is available to procure.

(14) "Solicitation" means an invitation to bid, a request for proposal or a request for quote issued pursuant to this chapter for the purpose of procuring property.

(15) "Specifications" means the standards or requirements for property to be procured as explicitly stated in a solicitation or contract.

(16) "State institution of higher education" means Boise State University, Eastern Idaho Technical College, Idaho State University or Lewis-Clark State College.

(17) "Vendor" means a person or entity capable of supplying property to the state.

Approved February 22, 2018

CHAPTER 18
(S.B. No. 1216)

AN ACT

RELATING TO COMPENSATION OF FIRE PROTECTION DISTRICT COMMISSIONERS; AMENDING SECTION 31-1421, IDAHO CODE, TO REVISE THE MAXIMUM AMOUNT OF COMPENSATION FOR PERFORMING FIRE DISTRICT BUSINESS BY FIRE PROTECTION DISTRICT COMMISSIONERS, TO PROVIDE FOR SPECIAL COMPENSATION UPON A DECLARATION OF EMERGENCY OR DISASTER WITHIN THE FIRE PROTECTION DISTRICT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 31-1421, Idaho Code, be, and the same is hereby amended to read as follows:

31-1421. COMPENSATION AND BENEFITS -- EXPENSES -- LIABILITY. (1) Fire protection district commissioners may receive reasonable compensation for their services as commissioners. The fire protection board shall fix commissioner benefits and compensation for the fiscal year. Compensation for performing district business shall not exceed seventy-five one hundred

dollars (~~\$75.00~~100) per day. If a city, county, state or federal declaration of emergency or disaster exists within the boundaries of the fire protection district, the board may set special compensation for commissioners by a resolution that shall be applied to commissioner compensation only upon a majority vote of the board and shall continue only for as long as the city, county, state or federal declaration of emergency or disaster remains in effect within the boundaries of the fire protection district. District business shall include time spent preparing for and attending regular and special board meetings and meetings of committees established by the board. Additional compensation, if approved by a majority of the fire protection board, may be calculated for commissioners who attend county or state agency meetings, educational classes, seminars, and other miscellaneous district business. Commissioners may also participate in the district's employee benefit package in the same manner as employees or volunteers. Any proposed commissioner benefits and annual compensation shall be published as a separate line item in the annual budget of the fire protection district.

(2) Actual expenses of commissioners for travel, and other district expenses approved by the board, shall be paid to the commissioners in addition to their annual compensation and benefits. The payment for expenses shall be paid from the funds of the fire protection district on either a per diem basis or upon the presentation of itemized receipts to the treasurer.

(3) The board shall fix the annual compensation and benefits to be paid to the other officers, agents and employees of the fire district, which shall be paid out of the treasury of the fire district.

(4) The district shall be liable and responsible for the actions and omissions of the commissioners, officers, agents and employees of the district, when the commissioners, officers, agents and employees are performing their duties within the course and scope of their employment with the district, and on behalf of the district.

Approved February 26, 2018

CHAPTER 19
(S.B. No. 1215)

AN ACT

RELATING TO FIRE PROTECTION DISTRICT ELECTIONS; AMENDING SECTION 31-1427, IDAHO CODE, TO REVISE A NOTICE PROVISION FOR HOLDING AN ELECTION IN A FIRE PROTECTION DISTRICT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 31-1427, Idaho Code, be, and the same is hereby amended to read as follows:

31-1427. INDEBTEDNESS PROHIBITED -- EXCEPTIONS. The board of commissioners of a fire protection district organized pursuant to the provisions of this chapter shall have no power to incur any debt or liability, except to the extent for the purposes and in the manner hereinafter provided:

(1) In the first year after organization, the board of a district may, for the purpose of organization, to finance general preliminary expenses of the district or for any other purpose of the fire protection district law, and before making a tax levy, incur an indebtedness not exceeding in the aggregate a sum equal to one cent (\$.01) on each one hundred dollars (\$100) of market value for assessment purposes of all real and personal property within the district.

(2) Whenever the board of commissioners of a fire protection district shall determine that the interest of said district and the public interest

or necessity require incurring an indebtedness exceeding the income and revenue provided for the year for the purposes of (a) acquiring, purchasing, constructing, improving and equipping lands, building sites and buildings together with the necessary appurtenant facilities and equipment and (b) acquiring and purchasing suitable equipment and apparatus necessary to provide fire protection, the board shall have the power and authority as hereinafter provided to issue general obligation coupon bonds not to exceed in the aggregate at any time two percent (2%) of market value for assessment purposes of the real and personal property in said district.

Whenever the board of a district shall deem it advisable to issue general obligation coupon bonds, the board shall provide for the issuance of such bonds by ordinance which shall specify and set forth all the purposes, objects and things required by section 57-203, Idaho Code, and make provision for the collection of an annual tax sufficient to (a) constitute a sinking fund for the payment of the principal thereof within thirty (30) years from the time of contracting said bonded indebtedness and (b) to pay the interest on such proposed bonds as it falls due.

The aforesaid ordinance shall also provide for holding an election, ~~notice of which shall be given for thirty (30) days in a newspaper or newspapers of general circulation in the district with the notice in compliance with section 34-1406, Idaho Code.~~ The election shall be conducted in the manner and form, the returns canvassed, and the qualifications of electors of the district voting or offering to vote shall be determined, as provided by the pertinent and applicable provisions of title 34, Idaho Code. The voting at such election must be by ballot and the ballot used shall be substantially as follows: "In favor of issuing bonds to the amount of dollars for the purpose stated in Ordinance No." and "Against issuing bonds to the amount of dollars for the purpose stated in Ordinance No." If at such election two-thirds (2/3) of the qualified electors voting at such election, assent to the issuing of such bonds and the incurring of the indebtedness thereby created for the purposes, objects, and things provided in said Ordinance No., such bonds shall be issued in the manner provided by chapter 2, title 57, Idaho Code, the municipal bond law of the state of Idaho.

Bonds issued pursuant to the provisions of this section and the income therefrom shall be exempt from taxation except transfer and estate taxes.

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 26, 2018

CHAPTER 20
(H.B. No. 467)

AN ACT

RELATING TO THE APPROPRIATION TO THE COMMISSION ON HISPANIC AFFAIRS FOR FISCAL YEAR 2018; APPROPRIATING ADDITIONAL MONEYS TO THE COMMISSION ON HISPANIC AFFAIRS FOR FISCAL YEAR 2018; 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 247, Laws of 2017, and any other appropriation provided for by law, there is hereby appropriated to the Commission on Hispanic Affairs \$26,000 from the General Fund to be expended for personnel costs for the period July 1, 2017, through June 30, 2018.

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

Law without signature.

CHAPTER 21
(S.B. No. 1209)

AN ACT

RELATING TO THE IDAHO PETROLEUM CLEAN WATER TRUST FUND; AMENDING SECTION 41-4904, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE BOARD OF TRUSTEES.

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

SECTION 1. That Section 41-4904, Idaho Code, be, and the same is hereby amended to read as follows:

41-4904. BOARD OF TRUSTEES OF THE FUND. (1) The governor shall appoint seven (7) persons to be the board of trustees of the Idaho petroleum clean water trust fund. One (1) member shall be a member of the state senate, one (1) member shall be a member of the state house of representatives, one (1) member shall be a representative of the financial community with expertise in the area of insurance, accounting or finance, one (1) member shall be an engineer, geologist or similarly trained scientist with experience in environmental remediation, ~~one and three (13) members~~ shall be a wholesale distributors of petroleum products who participates in the trust fund and has less than five million (5,000,000) gallons in annual sales, ~~one (1) member shall be a wholesale distributor of petroleum products who participates in the trust fund and has from five million (5,000,000) to ten million (10,000,000) gallons in annual sales, and one (1) member shall be a retailer of petroleum products who participates in the trust fund and has more than ten million (10,000,000) gallons in annual sales.~~ The governor shall appoint a chairman from the seven (7) members. The members shall be appointed for terms of four (4) years, except that all vacancies shall be filled for the unexpired term, provided that the first two (2) appointments the governor makes after the effective date of this act shall serve a term of two (2) years and the other five (5) members shall serve a term of four (4) years. Thereafter, a member shall serve a term of four (4) years. A certifi-

cate of appointment shall be filed in the office of the secretary of state. A majority of the members shall constitute a quorum for the transaction of all business or the exercise of any power or function of the Idaho petroleum clean water trust fund. Members of the board of trustees shall receive a compensation for service as prescribed in section 59-509(n), Idaho Code.

(2) The administrator of the fund shall be the state insurance fund unless replaced by the board of trustees with another person. The administrator shall serve at the pleasure of the board of trustees. The board of trustees may appoint and employ such other persons as may be required by the board and shall prescribe the duties and compensation of each such person.

(3) It shall be the duty of the board of trustees to direct the policies and operation of the fund to assure that it is run as an efficient insurance company, remains actuarially sound and maintains the public purposes for which the Idaho petroleum clean water trust fund was created.

Approved March 1, 2018

CHAPTER 22
(S.B. No. 1218)

AN ACT

RELATING TO ENVIRONMENTAL QUALITY; AMENDING SECTION 25-4011, IDAHO CODE, TO REVISE FACTORS TO BE CONSIDERED WHEN THE DIRECTOR OF THE IDAHO STATE DEPARTMENT OF AGRICULTURE IS DECIDING WHETHER TO DESIGNATE A POULTRY ANIMAL FEEDING OPERATION; AMENDING SECTION 25-4012, IDAHO CODE, TO PROVIDE THAT SPECIFIED LAW SHALL NOT AFFECT THE AUTHORITY OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO ADMINISTER AND ENFORCE AN IDAHO NPDES PROGRAM FOR POULTRY OPERATIONS AND DOES NOT ALTER THE REQUIREMENTS, LIABILITIES AND AUTHORITIES WITH RESPECT TO OR ESTABLISHED BY AN IDAHO NPDES PROGRAM, TO PROVIDE THAT THE DIRECTORS OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE IDAHO STATE DEPARTMENT OF AGRICULTURE ARE AUTHORIZED TO ESTABLISH CERTAIN AGREEMENTS, TO AUTHORIZE THE DIRECTOR OF THE IDAHO STATE DEPARTMENT OF AGRICULTURE TO EXERCISE CERTAIN OTHER AUTHORITIES DELEGATED BY THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL CONSULT WITH THE DIRECTOR OF THE IDAHO STATE DEPARTMENT OF AGRICULTURE BEFORE CERTIFYING DISCHARGES FROM POULTRY OPERATIONS; AMENDING CHAPTER 40, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-4015, IDAHO CODE, TO DECLARE POLICY AND STATE LEGISLATIVE INTENT; AMENDING SECTION 39-175B, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL NOT REQUIRE CERTAIN PERMITS FOR ACTIVITIES AND SOURCES NOT REQUIRED TO HAVE PERMITS BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY; AMENDING SECTION 39-175C, IDAHO CODE, TO PROVIDE FOR THE IDAHO POLLUTANT DISCHARGE ELIMINATION SYSTEM PROGRAM, TO LIMIT AUTHORITY REGARDING THE ISSUANCE OF PERMITS, TO CLARIFY AN EXCLUSION, TO REVISE RULEMAKING PROVISIONS, AND TO REVISE PROVISIONS REGARDING MEMORANDUMS OF AGREEMENT TO MAINTAIN APPROVAL TO OPERATE AN IDAHO POLLUTANT DISCHARGE ELIMINATION SYSTEM PROGRAM; AMENDING CHAPTER 1, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-175F, IDAHO CODE, TO PROVIDE FOR THE IDAHO POLLUTANT DISCHARGE ELIMINATION SYSTEM PROGRAM FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 25-4011, Idaho Code, be, and the same is hereby amended to read as follows:

25-4011. DESIGNATION. (1) The director may, on a case by case basis, designate a poultry AFO as a medium poultry CAFO if it is determined that the AFO is a significant contributor of pollutants to waters of the state. The designated medium poultry CAFO will be required to follow all permit requirements for a medium poultry CAFO.

(2) The designation shall be provided to the operator of the poultry AFO in writing, setting forth the basis for the director's decision.

(3) The director shall consider the following factors when deciding whether to designate a poultry AFO:

(a) Size of the poultry AFO and the amount of manure, process wastewater and runoff reaching waters of the state;

(b) Location of the poultry AFO relative to waters of the state;

(c) Means of conveyance of manure, process wastewater and runoff into waters of the state;

(d) Slope, vegetation, precipitation and other factors affecting the likelihood or frequency of discharge of manure, process wastewater or runoff into waters of the state; and

(e) ~~Unauthorized discharges into waters of the state through a man-made ditch, flushing system or other similar man-made device;~~

~~(f) Unauthorized discharges directly into waters of the state that originate outside of and pass over, across or through the facility or otherwise come into direct contact with the animals confined in the AFO; and~~

~~(g) Repeated instances of noncompliance.~~

(4) Upon request by the operator, the director shall redesignate a facility previously designated under subsection (1) of this section if the facility is no longer a significant contributor of pollution to waters of the state. Such redesignation shall be provided to the operator in writing and any fees or assessments paid by the operation due to the designation will not be refundable to the operation.

SECTION 2. That Section 25-4012, Idaho Code, be, and the same is hereby amended to read as follows:

25-4012. AUTHORITY TO PROMULGATE RULES. (1) The legislature finds that poultry AFOs require adequate control through state regulatory mechanisms in order to prevent such operations from posing a threat to the state's water resources. The Idaho state department of agriculture is in the best position to administer and implement rules to provide an adequate regulatory framework for poultry feeding operations.

(2) The director is authorized to modify the department's administrative rules and to make new rules for permitting and regulating poultry AFOs. Such regulations may include, but are not limited to, the information required on a permit application and the conditions for the issuance and maintenance of a permit, as the director deems necessary.

(3) Nothing in this chapter prohibits the board of county commissioners of any county from adopting regulations that are more stringent than those adopted by the state.

(4) Nothing in this chapter shall affect the authority of the department of environmental quality to administer and enforce an Idaho national pollutant discharge elimination system (NPDES) program for poultry operations, including without limitation the authority to issue permits, access records, conduct inspections and take enforcement action, as set forth in chapter 1, title 39, Idaho Code, and the rules adopted pursuant thereto. The provisions of this chapter do not alter the requirements, liabilities and authorities with respect to or established by an Idaho NPDES program.

(5) The director of the department of environmental quality and the director of the Idaho state department of agriculture shall, as appropriate, establish an agreement relating to the administration of an Idaho NPDES pro-

gram that recognizes the expertise of the Idaho state department of agriculture. The director shall have the authority to exercise any other authorities delegated by the director of the department of environmental quality regarding the protection of ground water, surface water and other natural resources associated with poultry operations, and this shall be the authority for the director of the department of environmental quality to so delegate.

(6) The director of the department of environmental quality shall consult with the director of the Idaho state department of agriculture before certifying discharges from poultry operations as provided under 33 U.S.C. 1341.

SECTION 3. That Chapter 40, Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 25-4015, Idaho Code, and to read as follows:

25-4015. DECLARATION OF POLICY AND STATEMENT OF LEGISLATIVE INTENT. (1) The legislature recognizes the importance of protecting state natural resources including surface water and ground water. It is the intent of the legislature to protect the quality of these natural resources while maintaining an ecologically sound, economically viable and socially responsible poultry industry in the state. The poultry industry produces manure and process wastewater that, when properly used, supplies valuable nutrients and organic matter to soils and is protective of the environment, but may, when improperly stored and managed, create adverse impacts on natural resources, including waters of the state. This chapter is intended to ensure that manure and process wastewater associated with poultry operations are handled in a manner that protects the natural resources of the state.

(2) Successful implementation of this chapter is dependent upon the department receiving adequate funding from the legislature. Moreover, the legislature recognizes that it is important for the state to obtain a delegated national pollutant discharge elimination system (NPDES) program from the United States environmental protection agency under the clean water act. The department's authority to enforce this chapter should be consistent and coordinated with the department of environmental quality's authorities pursuant to title 39, Idaho Code, to protect state ground and surface waters and to obtain approval from the United States environmental protection agency to implement and administer an Idaho NPDES program governing the discharge of pollutants to the waters of the United States as defined in the federal clean water act.

SECTION 4. That Section 39-175B, Idaho Code, be, and the same is hereby amended to read as follows:

39-175B. RELATIONSHIP BETWEEN STATE AND FEDERAL LAW. The legislature cannot conveniently or advantageously set forth in this chapter all the requirements of all of the regulations which have been or will be established under the clean water act. However, any state permitting program must avoid the existence of duplicative, overlapping or conflicting state and federal regulatory systems. Further, the board may promulgate rules to implement a state permitting program but such rules shall not impose conditions or requirements more stringent or broader in scope than the clean water act and regulations adopted pursuant thereto. Further, the department will not require NPDES Idaho pollutant discharge elimination system (IPDES) permits for activities and sources not required to have permits by the United States environmental protection agency.

SECTION 5. That Section 39-175C, Idaho Code, be, and the same is hereby amended to read as follows:

39-175C. APPROVAL OF STATE NPDES IDAHO POLLUTANT DISCHARGE ELIMINATION SYSTEM PROGRAM. (1) ~~The department is authorized to pursue approval of an NPDES implement an Idaho pollutant discharge elimination system (IPDES) program consistent with the requirements of this section. The department shall submit a complete application consistent with the requirements of the clean water act and 40 CFR 123 to the environmental protection agency to obtain approval for a state NPDES program by September 1, 2016 The program shall not include the authority to issue permits for any discharge of sewage from vessels, effluent from properly functioning marine engines, laundry, shower, and galley sink wastes, or any other discharge incidental to the normal operation of a vessel. This exclusion does not apply to rubbish, trash, garbage, or other such materials discharged overboard; nor to other discharges when the vessel is operating in a capacity other than as a means of transportation, such as when used as an energy or mining facility, a storage facility or a seafood processing facility, or when secured to a storage facility or a seafood processing facility or when secured to the bed of a lake or river, contiguous zone or waters of the United States for the purpose of mineral or oil exploration or development.~~

(2) ~~The board is authorized to proceed with negotiated rulemaking and all other actions that may eventually be necessary to obtain maintain approval of a state NPDES the IPDES program by the United States environmental protection agency including rules authorizing the collection of reasonable fees for processing and implementing an NPDES IPDES permit program. Such fees shall not be assessed or collected until unless the state obtains maintains an approved NPDES IPDES program consistent with the requirements of this section.~~

(3) ~~Any memorandum of agreement executed negotiated by the director to obtain maintain approval to operate a state NPDES an IPDES program shall not be binding on the state of Idaho unless authorized by upon enactment of a this statute. Any memorandum of agreement not authorized in the above manner shall be of no force and effect.~~

(4) ~~Implementation of a state NPDES the IPDES program shall not occur prior to statutory enactment of implementing legislation and authorization of a memorandum of agreement as specified in subsection (3) of this section.~~

(5) ~~The director, as appropriate, shall establish agreements with other state agencies with expertise to administer the NPDES IPDES program.~~

(6) ~~No provision of this chapter shall be interpreted as to supersede, abrogate, injure or create rights to divert or store water and apply water to beneficial uses established under section 3, article XV, of the constitution of the state of Idaho, and title 42, Idaho Code.~~

(7) ~~Nothing in this section is intended to supersede any existing agreements between federal, state or local agencies regarding authority over inspections, enforcement or other obligations under the clean water act.~~

SECTION 6. That Chapter 1, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-175F, Idaho Code, and to read as follows:

39-175F. IPDES PROGRAM FUND ESTABLISHED. (1) There is hereby created in the state treasury a fund to be known as the "IPDES Program Fund," which shall consist of all moneys received from fees collected from facilities obtaining an Idaho pollutant discharge elimination system (IPDES) permit or coverage under a general permit pursuant to section 39-175C(2), Idaho Code, and the rules promulgated pursuant thereto. Such fees shall be collected by the department and shall be paid into the IPDES program fund, which is hereby

established, reserved, set aside, appropriated and made available until expended, used and administered consistent with this section.

(2) All moneys deposited in the IPDES program fund and all interest earned thereon shall be kept in the IPDES program fund and shall be expended pursuant to appropriation for the costs and expenses incurred by the department in performing the duties and the exercise of its powers in carrying out the IPDES program including, but not limited to, compliance, training, technical, legal and administrative support and proceedings necessary for implementing the program required under the IPDES program as provided in this chapter.

(3) Pending such expenditure and use, surplus moneys in the IPDES program fund established in this section shall be invested by the state treasurer in the manner provided for idle state moneys in the state treasury by section 67-1210, Idaho Code. Interest earned on all such investments shall be paid into the IPDES program fund.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 1, 2018

CHAPTER 23
(S.B. No. 1233)

AN ACT

RELATING TO SCIENCE, TECHNOLOGY, ENGINEERING AND MATH EDUCATION; AMENDING SECTION 67-823, IDAHO CODE, TO PROVIDE FOR THE STEM ACTION CENTER ADVISORY BOARD, TO REVISE THE TERMS OF CERTAIN MEMBERS OF THE BOARD, TO PROVIDE FOR STAGGERED TERMS, TO REVISE THE DUTIES OF THE STEM ACTION CENTER, TO REMOVE A PROVISION REGARDING CERTAIN DUTIES OF THE STEM ACTION CENTER, TO REMOVE A CERTAIN POWER OF THE STEM ACTION CENTER, TO PROVIDE THAT THE ADMINISTRATOR SHALL REPORT THE PROGRESS OF THE STEM ACTION CENTER AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-824, IDAHO CODE, TO PROVIDE FOR THE STEM ACTION CENTER ADVISORY BOARD; AND AMENDING SECTION 67-825, IDAHO CODE, TO PROVIDE FOR THE STEM ACTION CENTER ADVISORY BOARD.

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

SECTION 1. That Section 67-823, Idaho Code, be, and the same is hereby amended to read as follows:

67-823. COORDINATION OF POLICY AND PROGRAMS RELATED TO SCIENCE, TECHNOLOGY, ENGINEERING AND MATH EDUCATION IN IDAHO. (1) There is hereby created in the office of the governor the "Science, Technology, Engineering and Math (STEM) Action Center" and the STEM action center advisory board. The administrator of the STEM action center shall be the official in the state designated to coordinate and oversee implementation of STEM programs; to promote STEM through best practices in education to ensure connection with industry and Idaho's long-term economic prosperity; to produce an Idaho STEM-competitive workforce to offer better access to competitive employment opportunities; and to drive student experience, engagement and industry alignment by identifying and implementing public and higher education STEM best practices to transform workforce development.

(2) The STEM action center advisory board shall consist of the following nine (9) members:

- (a) The director of the department of commerce, or his designee;
- (b) The director of the department of labor, or his designee;
- (c) One (1) member of the state board of education;
- (d) The superintendent of public instruction, or her designee; and
- (e) Five (5) members appointed by the governor, who shall serve at the pleasure of the governor for terms of ~~four~~ three (43) years, and who shall be residents of the state and represent manufacturing or STEM-related industries. The board's chairman will be elected annually by the members of the board.

(3) The terms of the first board shall be staggered with three (3) appointments expiring July 1, 2018; three (3) appointments expiring July 1, 2019; and three (3) appointments expiring July 1, 2020. Thereafter, the term of office for each member shall be three (3) years.

(4) A vacancy occurring other than by expiration of term shall be filled in the same manner as the original appointment and for the balance of the unexpired term.

(45) The duties of the STEM action center shall include:

- (a) Coordinate all state departments and divisions on STEM-related activities;
- (b) Perform industry needs and education process foci on industry career talent, gap analysis and needs assessment to lead future STEM teacher professional development activities and goals;
- (c) Align public education STEM activities with higher education STEM activities;
- (d) Identify and coordinate best practices among public education and higher education;
- (e) Strategically engage industry and, business and public or government entities to cooperate with the STEM action center and focus outcomes and goals on workforce needs and opportunities;
- (f) Support high-quality professional development focused on career readiness and talent development and provide other assistance for educators and students;
- (g) Work cooperatively with the Idaho department of education and the Idaho state board of education to define and implement pilot programs and select schools to:
 - (i) Further STEM education;
 - (ii) Ensure that best practices are implemented; and
 - (iii) Integrate research and document results of that research; and
- (h) Engage private entities to provide additional funding and/or in-kind employee time for STEM activities in schools supporting industry career readiness in addition to what is currently provided by private entities.

(56) The duties and oversight of the STEM action center shall not interfere or conflict with the duties and oversight of the state board of education.

(67) As funding allows, the administrator of the STEM action center shall:

- (a) Support high-quality professional development for educators regarding STEM education;
- (b) Ensure that the STEM action center acts as a research and development center for tools and best practice in STEM education coordination and development;
- (c) Review and acquire STEM education-related instructional materials and products for:
 - (i) Educator high-quality professional development;
 - (ii) Assessment, data collection, analysis and reporting; and
 - (iii) Public school instruction; and

- (d) Facilitate participation in interscholastic STEM-related competitions, fairs, expositions, camps and STEM education student programs;
 - (e) Engage private industry in the development and maintenance of the STEM action center and STEM action center projects;
 - (f) Use resources to bring the latest STEM content, 21st century skills and hands-on STEM education resources into public education classroom schools;
 - (g) Annually identify at least five (5) best practice innovations used in Idaho schools that have resulted in growth in interest and performance in STEM by students and teachers involved in pilot programs, math academies and STEM projects;
 - (h) Identify best practices being used outside the state and, as appropriate, develop and implement selected practices through pilot programs;
 - (i) As appropriate, join and participate in a national STEM network and collaborate with neighboring states in STEM program development;
 - (j) Identify performance changes linked to use of the best practices;
 - (k) Support best methods of high-quality professional development for STEM education in kindergarten through grade 12, including methods of high-quality professional development pilot programs that reduce cost and increase effectiveness, implement practices that support industry career readiness and talent development, and help educators learn how to most effectively implement STEM best practices, 21st century skills and STEM resources in classrooms;
 - (l) Support targeted high-quality professional development for improved instruction in K-12 STEM education, including:
 - (i) Improved instructional materials and resources that are dynamic and engaging for students;
 - (ii) Targeted instruction for students who traditionally avoid enrolling in STEM courses;
 - (iii) Introduction of engaging engineering and other STEM programs;
 - (iv) Use of applied instruction; and
 - (v) Introduction of other research-based methods that support student achievement in STEM areas; and
 - (m) Provide an Idaho best practices STEM resource database, including best practices from public education, higher education, informal STEM partners and other STEM-related entities.
- ~~(7) The board may prescribe other duties for the STEM action center in addition to the responsibilities described in this section.~~
- (8) The administrator shall track and compare the growth of students participating in a STEM action center program to all other similarly situated students in the state, in the following STEM-related activities, at the beginning and end of each year:
- (a) Public education high school graduation rates;
 - (b) The number of students taking STEM courses at an institution of public higher education;
 - (c) The number of students who graduate from an Idaho public school and begin a postsecondary education program; and
 - (d) The number of students, as compared to all similarly situated students, who are performing at grade level in STEM classes.
- (9) The STEM action center board may:
- (a) Enter into contracts for the purposes of this section; and
 - (b) Apply for, receive and disburse funds, contributions or grants from any source for the purposes set forth in this section; and
- ~~(c) Employ, compensate and prescribe the duties and powers of individuals necessary to execute the duties and powers of the board for the STEM action center.~~

(10) The board administrator shall report the progress of the STEM action center, including the information described in subsection (45) of this section, to the following groups once each year:

- (a) The house and senate education committees;
- (b) The governor's office;
- (c) The joint finance-appropriations committee; and
- (d) The state board of education.

(11) The report described in subsection (10) of this section shall include information that demonstrates the effectiveness of the program, including:

- (a) The number of educators receiving high-quality STEM professional development;
- (b) The number of students receiving services from the STEM action center, and the number of students participating in STEM camps, academies, pilot programs and classroom STEM activities;
- (c) A report on the STEM action center's fulfillment of its duties; and
- (d) Student performance of students participating in a STEM action center program.

SECTION 2. That Section 67-824, Idaho Code, be, and the same is hereby amended to read as follows:

67-824. STEM EDUCATION FUND. There is hereby created in the state treasury the STEM education fund to support the programs and priorities of the state in advancing science, technology, engineering and mathematics education. The STEM education fund may accept private contributions, moneys from other public agencies or moneys from any other source. The moneys shall be used solely for the purposes provided in section 67-823, Idaho Code, and be expended and accounted for as provided by law. All expenditures from the STEM education fund must be approved by the Idaho STEM action center advisory board.

SECTION 3. That Section 67-825, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

Approved March 1, 2018

CHAPTER 24
(H.B. No. 352)

AN ACT

RELATING TO OCCUPATIONAL LICENSING; AMENDING SECTION 54-1804, IDAHO CODE, TO PROVIDE A LICENSURE EXCEPTION FOR CERTAIN PHYSICIANS OR PHYSICIAN ASSISTANTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-3512, IDAHO CODE, TO PROVIDE THAT DIETITIANS LICENSED IN OTHER JURISDICTIONS MAY PRACTICE IN IDAHO UNDER CERTAIN CIRCUMSTANCES; AND AMENDING SECTION 54-3905, IDAHO CODE, TO REVISE PROVISIONS REGARDING LICENSURE EXCEPTIONS FOR ATHLETIC TRAINERS.

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

SECTION 1. That Section 54-1804, Idaho Code, be, and the same is hereby amended to read as follows:

54-1804. UNLICENSED PRACTICE -- PENALTIES AND REMEDIES RELATING TO UNLICENSED PRACTICE. (1) Under the circumstances described and subject in each case to limitations stated, the following persons, though not holding a license to practice medicine in this state, may engage in activities included in the practice of medicine:

(a) A medical officer of the armed forces of the United States, of the United States public health service, or of the United States department of veterans affairs, while engaged in the performance of his official duties;

(b) A person residing in another state or country and authorized to practice medicine there, who is called in consultation by a person licensed in this state to practice medicine, or who for the purpose of furthering medical education is invited into this state to conduct a lecture, clinic, or demonstration, while engaged in activities in connection with the consultation, lecture, clinic, or demonstration, ~~so~~ as long as he does not open an office or appoint a place to meet patients or receive calls in this state;

(c) A person authorized to practice medicine in another state or country while rendering medical care in a time of disaster or while caring for an ill or injured person at the scene of an emergency and while continuing to care for such person;

(d) An extern, intern or resident who is registered with the board as provided in this chapter and while engaged in programs authorized pursuant to rules of the board or a physician assistant licensed by the board;

(e) A person authorized or licensed by this state to engage in activities which may involve the practice of medicine;

(f) A person engaged in good faith in the practice of the religious tenets of any church or religious beliefs;

(g) A person administering a remedy, diagnostic procedure or advice as specifically directed by a physician;

(h) A person rendering aid in an emergency, where no fee for the service is contemplated, charged or received. This exception shall specifically include ski patrollers who are members of the national ski patrol system, inc., and are trained in and holding a current outdoor emergency care (OEC) credential, as issued by the national ski patrol system, inc., while rendering aid in accordance with the standards of training of such credential, where no fee for the service is contemplated, charged or received, and in the course of alpine, nordic or cross-country skiing and other recreational activities conducted in whole or in part at ski areas in the state of Idaho;

(i) A person administering a family remedy to a member of the family;
(j) A person who administers treatment or provides advice regarding the human body and its functions that:

(i) Does not use legend drugs or prescription drugs in such practice;

(ii) Uses natural elements such as air, heat, water and light;

(iii) Only uses class I or class II nonprescription, approved, medical devices as defined in section 513 of the federal food, drug and cosmetic act;

(iv) Only uses vitamins, minerals, herbs, natural food products and their extracts, and nutritional supplements; and who

(v) Does not perform surgery;

(vi) Requires each person receiving services to sign a declaration of informed consent which includes an overview of the health care provider's education which states that the health care provider is not an "M.D." or "D.O." and is not licensed under the provisions of this chapter; or

(k) A physician or physician assistant licensed and in good standing in another jurisdiction of the United States or credentialed in another country who:

(i) Is affiliated with or employed by an established athletic team, athletic organization or performing arts company temporarily practicing, competing or performing in this state for no more than sixty (60) days in a calendar year; and

(ii) Is practicing only on patients, clients or team staff affiliated with or employed by such team, organization or company.

(2) Nothing in subsection (1) (k) of this section shall be construed to permit a physician or physician assistant to provide care or consultation to any person residing in this state, other than a person specified in subsection (1) (k) of this section. Further, nothing in subsection (1) (k) of this section shall be construed to permit a physician or physician assistant to practice at a licensed health care facility in this state or to have prescriptive rights in this state unless in accordance with federal law.

(23) Except as provided in subsection (1) of this section, it shall constitute a felony for any person to practice medicine in this state without a license and upon conviction thereof shall be imprisoned in the state prison for a period not to exceed five (5) years, or shall be fined ~~not~~ no more than ten thousand dollars (\$10,000), or shall be punished by both such fine and imprisonment.

(34) Except as provided in subsections (1) (a), (1) (b), and (1) (c) above, it is unlawful for any person to assume or use the title or designation "medical doctor," "medical physician," "osteopathic doctor," "osteopathic physician," "M.D." or "D.O." or any other title, designation, words, letters, abbreviation, sign, card, or device to indicate to the public that such person is licensed to practice medicine pursuant to this chapter unless such person is so licensed, and upon conviction thereof, such person shall be imprisoned not to exceed one (1) year, or shall be fined ~~not~~ no more than three thousand dollars (\$3,000), or shall be punished by both fine and imprisonment.

(45) When a person has been the recipient of services constituting the unlawful practice of medicine, whether or not he knew the rendition of the services was unlawful, proof of the rendition of such unlawful services by the recipient or his personal representative in an action against the provider of such services for damages allegedly caused by the services constitutes prima facie evidence of negligence shifting the burden of proof to such provider of unlawful services. The following damages in addition to any other remedies provided by law may be recovered in such an action:

(a) The amount of any fees paid for the unlawful services.

(b) Reasonable attorney's fees and court costs.

(56) The board shall refer all violations of this section made known to it to appropriate prosecuting attorneys. The board may render assistance to a prosecuting attorney in the prosecution of a case pursuant to this section.

SECTION 2. That Section 54-3512, Idaho Code, be, and the same is hereby amended to read as follows:

54-3512. INAPPLICABILITY OF CHAPTER. (1) This chapter shall not be construed to prevent any person from rendering advice, guidance or counsel regarding medical nutrition service, therapeutic nutrition care, nutritional assessments, nutrition therapy counseling, weight control services, or from providing nutrition information in connection with the marketing and distribution of a food product, dietary supplement, or wellness/exercise program.

(2) This chapter shall not be construed to prevent any person licensed or registered in this state, pursuant to any other law of the state, from engaging in the profession or occupation for which such person is licensed or registered.

(3) This chapter shall not be construed to prevent a dietitian licensed and in good standing in another jurisdiction of the United States or credentialed in another country from practicing, within this state, activities that are within the scope of such dietitian's license or credentials, when the dietitian:

(a) Is affiliated with or employed by an established athletic team, athletic organization or performing arts company temporarily practicing, competing or performing in this state for no more than sixty (60) days in a calendar year; and

(b) Is practicing only on patients, clients or team staff affiliated with or employed by such team, organization or company.

SECTION 3. That Section 54-3905, Idaho Code, be, and the same is hereby amended to read as follows:

54-3905. EXCEPTIONS TO LICENSURE REQUIREMENT. (1) Nothing in this chapter shall be construed as preventing or restricting the practice, services or activities or requiring licensure pursuant to this chapter of:

~~(1a) Any person licensed in this state by any other law, from engaging in the profession or occupation for which such person is licensed or registered or otherwise regulated; or~~

~~(2b) Any person employed as an athletic trainer by the government of the United States or any agency thereof, if such person provides athletic trainer services solely under the direction or control of the government agency by which such person is employed; or~~

~~(3c) Any person pursuing a supervised course of study leading to a degree, licensure or registration as athletic trainer in an accredited or approved educational program, if the person is designated by a title which clearly indicates a student or trainee status; or~~

~~(4d) Any person fulfilling supervised fieldwork experience requirements as prescribed by the board; or~~

~~(5) For purposes of continuing education, consulting, and/or training, any person performing athletic trainer services in the state, if these services are performed for no more than sixty (60) days in a calendar year in association with an athletic trainer licensed under this chapter, if:~~

~~(a) The person is licensed, registered or certified and in good standing as an athletic trainer in another state; or~~

~~(b) The person is certified and in good standing as an athletic trainer by the national athletic trainers' association board of certification or by a nationally recognized credentialing agency, accepted by the board~~

(e) Any person residing in another state or country and authorized to practice as an athletic trainer there who is called in consultation by a person licensed in this state to practice as an athletic trainer or who, for the purpose of furthering athletic training education, is invited to this state to conduct a lecture, clinic or demonstration, while engaged in activities in connection with the consultation, lecture, clinic or demonstration, as long as the athletic trainer does not open an office or appoint a place to meet patients or receive calls in this state; or

(f) An athletic trainer licensed and in good standing in another jurisdiction of the United States or credentialed in another country who practices in this state within the scope of such license or credentials, and who:

(i) Is affiliated with or employed by an established athletic team, athletic organization or performing arts company temporarily practicing, competing or performing in this state for no more than sixty (60) days in a calendar year; and

(ii) Is practicing only on patients, clients or team staff affiliated with or employed by such team, organization or company.

(62) Nothing herein shall be construed to require registration of elementary or secondary school teachers, coaches or authorized volunteers who do not hold themselves out to the public as athletic trainers.

(73) This act chapter shall not be construed as to require licensure by persons assisting in an emergency or in providing aid or service for which no fee for service is contemplated, charged or received, provided that the person providing the service or assisting in the emergency does not hold himself out as an athletic trainer.

Approved March 1, 2018

CHAPTER 25
(H.B. No. 361)

AN ACT

RELATING TO FILING FEES FOR THE SECRETARY OF STATE; AMENDING SECTION 30-21-214, IDAHO CODE, TO REMOVE THE FEE CHARGED FOR FILING A STATEMENT OF TERMINATION AND TO REVISE THE FILING FORMAT FOR WHICH A SURCHARGE MAY BE CHARGED; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 30-21-214, Idaho Code, be, and the same is hereby amended to read as follows:

30-21-214. FEES. (a) The secretary of state shall collect the following fees for copying and certifying the copy of any filed record:

- (1) Twenty-five cents (25¢) per page for copying; and
- (2) Ten dollars (\$10.00) for the certification.

(b) The secretary of state shall collect the following fees when an entity filing is delivered for filing:

- (1) Statement of merger \$30.00
- (2) Statement of withdrawal \$30.00
- (3) Statement of interest exchange \$30.00
- (4) Statement of abandonment \$30.00
- (5) Statement of conversion \$30.00
- (6) Statement of domestication \$30.00
- (7) Annual report No fee
- (8) Articles of incorporation of a business corporation \$100.00

(9) Articles of incorporation of a nonprofit corporation	\$30.00
(10) Statement of qualification of a limited liability partnership	\$100.00
(11) Certificate of amendment to certificate of assumed business name	\$10.00
(12) Certificate of amendment to certificate of assumed business name with only an address change	No fee
(13) Certificate of assumed business name	\$25.00
(14) Certificate of cancellation of a certificate of assumed business name	No fee
(15) Certificate of limited partnership of a limited partnership	\$100.00
(16) Certificate of organization of a limited liability company	\$100.00
(17) Other public organic documents or a statement not otherwise speci- fied herein	\$30.00
(18) Commercial registered agent listing statement	\$100.00
(19) Commercial registered agent termination statement	\$20.00
(20) Commercial registered agent statement of change	\$30.00
(21) Registered agent statement of resignation	No fee
(22) Statement designating a registered agent	\$20.00
(23) Foreign entity registration statement	\$100.00
(24) Amendment of foreign entity registration statement	\$30.00
(25) Statement of withdrawal of foreign entity registration statement	\$20.00
(26) Statement of correction	\$30.00
(27) Application for reinstatement following administrative dissolu- tion	\$30.00
(28) Statement of dissolution of a limited liability company . . .	No fee
(29) Statement of partnership authority	\$100.00
(30) Certificate of existence	\$10.00
(31) Application for use of deceptively similar name	\$20.00
(32) Application for reserved name	\$20.00
(33) Notice of transfer of reserved name	\$20.00
(34) Application for registered name	\$60.00
(35) Application for renewal of registered name	\$60.00
(36) Amendment of articles of incorporation	\$30.00
(37) Restatement of articles of incorporation with amendment of arti- cles	\$30.00
(38) Articles of dissolution	No fee
(39) Articles of revocation of dissolution	\$30.00
(40) Certificate of administrative action	\$10.00
(41) Certificate of judicial dissolution	No fee
(42) Statement of termination	\$30.00 No fee

(c) The withdrawal under section 30-21-204, Idaho Code, of a filed record before it is effective or the correction of a filed record under section 30-21-205, Idaho Code, does not entitle the person on whose behalf the record was filed to a refund of the filing fee.

(d) The secretary of state shall collect a surcharge of twenty dollars (\$20.00) for providing evidence of filing an entity filing within eight (8) working hours after the entity filing is delivered for filing.

(e) The secretary of state shall collect a surcharge of twenty dollars (\$20.00) for filing any non-typed record or any record that is not on a standard form prescribed by the secretary of state, except no surcharge will be collected for a non-typed certificate of assumed business name or a certificate of amendment to certificate of assumed business name form that is not generated by the secretary of state's electronic filing system and that requires manual data entry.

SECTION 2. This act shall be in full force and effect on and after October 31, 2018.

Approved March 1, 2018

CHAPTER 26
(H.B. No. 364)

AN ACT

RELATING TO TRANSPORTATION; AMENDING SECTION 49-1004, IDAHO CODE, TO PROVIDE THAT CERTAIN PERMITS MAY BE IN HARD COPY OR DIGITAL FORMAT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 49-1004, Idaho Code, be, and the same is hereby amended to read as follows:

49-1004. PERMITS FOR OVERWEIGHT OR OVERSIZE LOADS -- SPECIAL ROUTES AND ANNUAL PERMITS. (1) Upon application in writing to the board or other proper authorities in charge of, or having jurisdiction over a highway, the board or authorities may in their discretion issue a special permit to the owner or operator of any vehicle allowing vehicles or loads having a greater weight or size than permitted by law to be moved or carried over and on the highways and bridges.

(a) Special permits shall be in writing either hard copy or digital format and may limit the time of use and operation over the particular highways and bridges which may be traversed and may contain any special conditions and require any undertaking or other security as the board or other proper authority shall deem to be necessary to protect the highways and bridges from injury, or provide indemnity for any injury to highways and bridges or to persons or property resulting from such operation.

(b) The owner or operator of an overweight or oversize vehicle shall obtain a permit, or shall establish intent to obtain a permit by contacting a permit office and receiving a permit number before moving the vehicle on the highways.

(c) All special permits or evidence of intent to obtain a permit, whether in hard copy or digital format, shall be carried in the vehicles to which they refer and shall upon demand be delivered for inspection to any peace officer, authorized agent of the board or any officer or employee charged with the care or protection of the highways.

(2) Nonreducible vehicles or combinations of vehicles hauling nonreducible loads at weights in excess of those set forth in section 49-1001, Idaho Code, shall pay fees as set forth in this subsection. Such fees are based on the number of axles on the vehicle or combination of vehicles and the total gross weight.

Number of axles	Column 1	Column 2
	Gross weight of vehicle and load in pounds	Gross weight of vehicle and load in pounds
2	40,001	-
3	54,001	-
4	68,001	-
5	80,001	131,001
6	97,001	148,001
7	114,001	165,001

(a) To determine the maximum allowable permit fee for vehicles with more than seven (7) axles, the table can be extended by adding seventeen thousand (17,000) pounds to the last listed weight in both columns 1 and 2 for each added axle.

(b) Permit fees for column 1 shall start at four cents (4¢) per mile and increase four cents (4¢) per mile for each additional two thousand (2,000) pound increment up to the weight indicated in column 2. Permit fees for column 2 shall start at one dollar and two cents (\$1.02) per mile and increase seven cents (7¢) per mile for each additional two thousand (2,000) pound increment.

(c) Vehicles operating at weights less than the starting weights per axle configuration listed in column 1 shall be charged four cents (4¢) per mile.

(d) For vehicles operating with axles wider than eight (8) feet six (6) inches or axles with more than four (4) tires per axle, the fee may be reduced by the board or other proper authority having jurisdiction over a highway.

(3) It shall be unlawful for any person to violate, or to cause or permit to be violated, the limitations or conditions of special permits, and any violation shall be deemed for all purposes to be a violation of the provisions of this chapter.

(4) An annual special route permit authorizing travel on designated routes shall be issued by the board or may, in its discretion, be issued by a local public highway agency for operation of vehicles with a legal maximum gross weight of at least one hundred five thousand five hundred one (105,501) pounds but not exceeding one hundred twenty-nine thousand (129,000) pounds. Such routes on nonstate and noninterstate highways shall be determined by the local highway agency for those roads under its jurisdiction. No local public highway agency shall approve a route which provides a thoroughfare for interstate carriers to pass through the state. State routes designated by the legislature and identified on a map entitled "Designated Routes" are:

(a) US-20 Montana border to its junction with SH-33; SH-33 to its junction with US-20; US-20 to its junction with US-93; US-93 to its junction with SH-25; SH-25 to its junction with SH-50; SH-50 to its junction with US-30; US-30 to its junction with SH-74; SH-74 to its junction with US-93; US-93 to the Nevada border.

(b) US-91 from its junction with SH-34 to the Utah border.

(c) US-30 from its junction with I-15 to the Wyoming border.

(d) US-95 south from milepost 66 (Fruitland) to its junction with SH-55.

(e) SH-19 from its junction with US-95 (Wilder) to its junction with I-84B (Caldwell).

(f) SH-78 from its junction with SH-55 (Marsing) to its junction with SH-51; SH-51 to its junction with SH-78; SH-78 to its junction with I-84B (Hammett).

- (g) SH-67 from its junction with SH-51 (Mountain Home) to its junction with SH-78 (Grandview).
- (h) SH-55 from intersection with Farmway Road to junction with US-95.
- (i) SH-25 from its junction with SH-24 to its junction with SH-27 (Paul).
- (j) SH-25 from its junction with US-93 to milepost 27 (Hazelton).
- (k) SH-24 from intersection with US-93 to its intersection with SH-25.
- (l) US-20 from its intersection with New Sweden Road to its junction with SH-22/33.
- (m) SH-34 from milepost 78 to the junction with US-91.
- (n) US-26 from its junction with US-91 north to its intersection with Gallatin/West 23rd Street in Idaho Falls.
- (o) US-91 from the intersection with Canyon Road to the junction with US-26.
- (p) SH-22 from its junction with I-15 northbound ramps (Dubois) to its junction with SH-33.
- (q) SH-45 from its junction with SH-78 to its junction with I-84 business loop; I-84 business loop to its junction with exit 35 (Nampa Boulevard/Northside Boulevard).
- (r) SH-87 from Montana border to junction with US-20.
- (s) SH-33 from its junction with SH-31 (Victor) to its junction with SH-33 spur; SH-33 spur to its junction with US-20.
- (t) SH-28 from junction with SH-22 to junction with SH-33.
- (u) SH-38 from milepost 0.689 to milepost 1.318 at Malad.
- (v) SH-27 from its junction with SH-25 (Paul) to its junction with I-84B (Burley); I-84B to its junction with SH-27; SH-27 to milepost 0 (Oakley).
- (w) SH-81 from its junction with SH-77 (Malta) to its junction with US-30 (Burley).
- (x) US-30 from junction with SH-81 at Burley to junction with SH-50 at Kimberly.
- (y) US-93 spur from junction with US-30 to junction with US-93 at Twin Falls.
- (z) US-93 from junction with US-93 spur to junction with US-30 at Twin Falls.
- (aa) US-30 from junction with SH-74 at Twin Falls to junction with I-84 business loop at Bliss.
- (bb) US-26 from its junction with SH-75 (Shoshone) to its junction with I-84 exit 141 westbound ramps (Bliss); I-84 business loop from its junction with I-84 exit 141 westbound ramps to its junction with US-30 (Bliss).
- (cc) SH-46 spur from its junction with SH-46 (Wendell) to its junction with I-84 exit 155 eastbound ramps.
- (dd) SH-46 from its junction with US-20 to its junction with I-84 exit 157 eastbound ramps (Wendell).
- (ee) US-20 from junction with US-93 at Carey to junction with I-84 business loop at interchange 95; I-84 business loop from interchange 95 to junction with SH-51; SH-51 to junction with SH-67.
- (ff) SH-51 from junction with SH-67 to junction with SH-78.
- (gg) SH-44 from its junction with SH-55 (Eagle) to its junction with I-84 exit 25 eastbound ramps.
- (hh) US-20/26 from its junction with US-95 (Parma) to its junction with I-84 exit 26 westbound ramps.
- (ii) US-20 from junction with US-33 at Sugar City south to junction with US-20 business loop/Holmes Avenue; US-20 business loop/Holmes Avenue south to junction with US-26/Yellowstone; US-26 from intersection with US-20 business loop/Holmes Avenue south to Gallatin.

Additions or deletions to the approved state routes specified in this subsection shall be made only with the approval of the state legislature.

(5) An annual administrative permit fee for operating on designated routes at the weights specified in subsection (4) of this section shall be set by the board for travel on state routes and by the local public highway agency for travel on routes under its jurisdiction, but not to exceed a maximum of fifty dollars (\$50.00) per vehicle. The annual administrative permit fee shall cover administrative costs. Local public highway agencies are authorized to issue special permits and such permits shall be in writing either hard copy or digital format. Administrative permit fees for permits issued by a local public highway agency shall be retained by the local public highway agency to cover administrative costs, and administrative permit fees for permits issued by the department shall be retained by the department to cover administrative costs. In addition to the annual administrative permit fee and the appropriate registration fee for weights up to one hundred five thousand five hundred (105,500) pounds, the appropriate vehicle registration fees for weights over one hundred five thousand five hundred (105,500) pounds shall be calculated and collected in accordance with the fee schedules set forth in section 49-432 or 49-434, Idaho Code.

(6) (a) In any action or proceeding brought for the purpose of setting aside a special permit issued pursuant to this section, in which any party seeks a stay or seeks a temporary restraining order or preliminary injunction against the department, other appropriate authority, the state of Idaho or any party requesting the permit, the court may require bond as provided in rule 65(c) of the Idaho rules of civil procedure, in an amount not to exceed ten percent (10%) of the shipper's or transporter's insured value of the product or material to be transported under the provisions of the permit. If any attorney's fees and/or costs are awarded to the department or other state actor, such bond may be used to satisfy that award and all awarded amounts shall be paid to the state highway account established in section 40-702, Idaho Code.

(b) Where there is a final judgment in an action or proceeding brought for the purpose of setting aside a special permit issued pursuant to this section against the party or parties who brought such action or proceeding, the court may determine the actual damages resulting from the action or proceeding caused to the department or other state actor and may award up to that amount to the party or parties.

Approved March 1, 2018

CHAPTER 27
(H.B. No. 369)

AN ACT

RELATING TO THE IDAHO ROADLESS RULE IMPLEMENTATION COMMISSION; AMENDING CHAPTER 8, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-826, IDAHO CODE, TO PROVIDE FOR THE IDAHO ROADLESS RULE IMPLEMENTATION COMMISSION.

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

SECTION 1. That Chapter 8, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-826, Idaho Code, and to read as follows:

67-826. IDAHO ROADLESS RULE IMPLEMENTATION COMMISSION. (1) There is hereby established in the office of the governor an Idaho roadless rule implementation commission, hereinafter referred to as the "commission."

(2) The commission shall cooperate and advise on proposed and ongoing projects, plans and policies occurring within or affecting "Idaho roadless areas," as defined in 36 CFR 294.21.

(3) The commission will, as necessary, enter into memoranda of understanding or other agreements with the United States forest service to cooperate on activities subject to the Idaho roadless rule as provided in 36 CFR 294, subpart C.

(4) The members of the commission shall be appointed by and serve at the pleasure of the governor. The commission shall be composed of fifteen (15) members and may be appointed from the following three (3) categories:

(a) Individuals who:

- (i) Participated in the development of the Idaho roadless rule or were members of the roadless area conservation national advisory committee;
- (ii) Represent developed outdoor recreation, off-highway vehicle users or commercial recreation activities;
- (iii) Represent energy or mineral development interests;
- (iv) Represent the commercial timber industry; or
- (v) Hold a federal grazing lease or other federal land use lease.

(b) Individuals who:

- (i) Represent an environmental organization;
- (ii) Represent dispersed recreation activities;
- (iii) Represent archaeological and historical interests; or
- (iv) Represent a nationally or regionally recognized wildlife or sportsmen's interest group.

(c) Individuals who:

- (i) Hold state elected office or their designee;
- (ii) Hold county or local elected office;
- (iii) Represent an American Indian tribe within the state of Idaho; or
- (iv) Represent the public at large.

(5) There shall be a chairman and a vice chairman of the commission elected by a majority of the members of the commission. A majority of the commissioners shall constitute a quorum.

(6) The commission meetings will, if determined warranted, be held semiannually or at other times upon the call of the chairman or a majority of the commission.

Approved March 1, 2018

CHAPTER 28
(H.B. No. 379)

AN ACT

RELATING TO THE IDAHO NONPROFIT CORPORATION ACT; AMENDING SECTION 30-30-102, IDAHO CODE, TO SPECIFY CONDITIONS UNDER WHICH AN INCORPORATOR MUST SIGN CERTAIN RECORDS DELIVERED TO THE SECRETARY OF STATE; AND AMENDING SECTION 30-30-202, IDAHO CODE, TO REMOVE A REQUIREMENT THAT EVERY INCORPORATOR OF A NONPROFIT CORPORATION MUST SIGN ITS ARTICLES OF INCORPORATION.

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

SECTION 1. That Section 30-30-102, Idaho Code, be, and the same is hereby amended to read as follows:

30-30-102. FILING REQUIREMENTS. (1) Except as otherwise permitted by subsection (2) of this section, a record delivered to the secretary of state for filing pursuant to this chapter must be signed as follows:

(a) By the presiding officer of its board of directors of a domestic or foreign nonprofit corporation, by its president, or by another of its officers;

(b) If ~~directors have not been selected or~~ the corporation has not been formed, by an incorporator; or

(c) If the corporation is in the hands of a receiver, trustee or other court-appointed fiduciary, by that fiduciary.

(2) The annual report delivered to the secretary of state for filing under section 30-21-213, Idaho Code, shall be executed by one (1) of the persons identified in subsection (1) of this section or by another person who is authorized by the board of directors to execute the report.

SECTION 2. That Section 30-30-202, Idaho Code, be, and the same is hereby amended to read as follows:

30-30-202. ARTICLES OF INCORPORATION. (1) The articles of incorporation must set forth:

(a) A corporate name for the corporation that satisfies the requirements of sections 30-21-301 and 30-21-302 (a), Idaho Code;

(b) The purpose or purposes for which the corporation is organized, which may be, either alone or in combination with other purposes, the transaction of any lawful activity;

(c) The names and addresses of the individuals who are to serve as the initial directors;

(d) The information required by section 30-21-404 (a), Idaho Code;

(e) The name and address of each incorporator;

(f) Whether or not the corporation will have members; and

(g) Provisions not inconsistent with law regarding the distribution of assets on dissolution.

(2) The articles of incorporation may set forth:

(a) Provisions not inconsistent with law regarding:

(i) Managing and regulating the affairs of the corporation;

(ii) Defining, limiting and regulating the powers of the corporation, its board of directors, and members or any class of members; and

(iii) The characteristics, qualifications, rights, limitations and obligations attaching to each or any class of members.

(b) Any provision that under this act is required or permitted to be set forth in the bylaws.

(3) ~~Each incorporator named in the articles must sign the articles.~~

~~(4) The articles of incorporation need not set forth any of the corporation powers enumerated in this act.~~

(54) The articles of incorporation may authorize assessments to be levied upon all members or classes of membership alike, or upon the outstanding shares of stock of the corporation that issues shares of stock instead of memberships pursuant to its articles of incorporation, or in different amounts or proportions or upon a different basis upon different members or classes of membership, and may exempt some members or classes of membership from assessments. The articles of incorporation may fix the amount and method of collection of assessments, or may authorize the board of directors to fix the amount thereof, from time to time, and may make them payable at such times or intervals, and upon such notice and by such methods as the directors may prescribe. Assessments may be made enforceable by civil action or by the forfeiture of membership, or both, or by the sale of shares of the capital stock of a stockholder in a corporation that issues shares of stock instead of memberships, when authorized by the articles of incorporation of said corporation, upon notice given in writing twenty (20) days before commencement of such action or such forfeiture. If the articles of incorporation so provide, assessments may be secured by a lien upon real property to which membership rights are appurtenant, if appropriate, or upon the shares of stock of a stockholder or shareholder corporation, when authorized by its articles of incorporation.

Approved March 1, 2018

CHAPTER 29
(H.B. No. 390)

AN ACT

RELATING TO PROPERTY TAXES; AMENDING SECTION 63-509, IDAHO CODE, TO REMOVE THE REQUIREMENT THAT COUNTY PROPERTY ASSESSMENT ROLL ABSTRACTS BE SENT TO THE STATE TAX COMMISSION BY CERTIFIED MAIL AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 63-509, Idaho Code, be, and the same is hereby amended to read as follows:

63-509. DELIVERY OF ROLLS TO COUNTY AUDITOR -- ABSTRACTS OF ROLLS. (1) On or before the second Monday of July the board of equalization must deliver the property rolls, with all changes, corrections and additions and exemptions from taxation entered therein, to the county auditor. It shall be the duty of the county auditor to cause to be prepared the roll for delivery to the county tax collector on or before the first Monday of November. It shall be the duty of the county auditor to cause to be prepared a total of the amount and value of each category of property and prepare an abstract of all the property entered upon the roll in the manner and form required by the state tax commission. Such forms must show, but need not be limited to, the market value for assessment purposes of all property by categories, and the exemptions from taxation allowed by categories. Any abstracts needed by and prepared for the state tax commission must be delivered by certified mail to the state tax commission by the fourth Monday of July. The abstracts will show the increment value as defined in section 50-2903, Idaho Code, in any revenue allocation area established pursuant to chapters 20 and 29, title 50, Idaho Code, and the value of exemptions granted pursuant to sections 63-602G, 63-602K, 63-602P, 63-602X, 63-602AA, 63-602BB and 63-602CC, Idaho

Code, as well as the net taxable value for each of the categories. The abstracts shall be prepared and duly verified and must show a correct classification of all the property in accordance with the classification of such property upon the property roll, and all matters and things required to be shown upon the abstracts must be entered.

(2) The subsequent property roll shall be delivered to the county auditor as soon as possible after the first Monday in December. The county auditor shall deliver the subsequent property roll to the county tax collector without delay.

(3) The missed property roll shall be delivered to the county auditor as soon as possible, but no later than the first Monday in March of the succeeding year. The county auditor shall deliver the missed property roll to the county tax collector without delay.

(4) The county auditor must cause to be prepared abstracts of the combined subsequent and missed property rolls as prescribed in subsection (1) of this section and submit the abstracts ~~by certified mail~~ to the state tax commission on or before the first Monday in March of the succeeding year.

Approved March 1, 2018

CHAPTER 30
(H.B. No. 391)

AN ACT

RELATING TO THE IDAHO STATE TAX COMMISSION; AMENDING SECTION 63-105A, IDAHO CODE, TO CHANGE THE DATE BY WHICH THE STATE TAX COMMISSION MUST CORRECT AND REPORT PROPERTY ASSESSMENT ERRORS TO THE COUNTY AUDITOR AND COUNTY TAX COLLECTOR AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 63-105A, Idaho Code, be, and the same is hereby amended to read as follows:

63-105A. POWERS AND DUTIES -- PROPERTY TAX. The state tax commission shall be the state board of equalization. In addition to other powers and duties vested in it, the state tax commission shall have the power and duty:

(1) To supervise and coordinate the work of the several county boards of equalization.

(2) To secure, tabulate and keep records of valuations of all classes of property throughout the state, and, for that purpose, to have access to all records and files of state offices and departments and county and municipal offices, and to require all public officers and employees whose duties make it possible to ascertain valuations, including valuations of public utilities for ~~rate-making~~ ratemaking purposes, to file reports with the state tax commission, giving such information as to valuation and the source thereof. The nature and kind of the tabulations, records of valuations and requirements from public officers as stated herein, shall be in such form and cover such valuations as the state tax commission may prescribe.

(3) To coordinate and direct a system of property taxation throughout the state.

(4) To require all assessments of property in this state to be made according to law; and for that purpose to correct, when it finds the same to be erroneous, any assessments made in any county, and require correction of the county assessment records accordingly.

(5) To prescribe forms and to specify and require information with relation to any duty or power of the state tax commission except as provided in section 63-219, Idaho Code.

(6) To instruct, guide, direct and assist the county assessors and county boards of equalization as to the methods best calculated to secure uniformity in the assessment and equalization of property taxes, to the end that all property shall be assessed and taxed as required by law.

(7) To reconvene, whenever the state tax commission may deem necessary, any county board of equalization, notwithstanding the limitations of chapter 5, title 63, Idaho Code, for equalization purposes and for correction of errors. The county board of equalization, when so reconvened, shall have no power to transact any business except that for which it is specially reconvened, or such as may be brought before it by the state tax commission.

(8) To require prosecuting attorneys to institute and prosecute actions and proceedings in respect to penalties, forfeitures, removals and punishments for violations of law in connection with the assessment and taxation of property. It shall be the duty of such officers to comply promptly with the requirements of the state tax commission in that relation.

(9) To require individuals, partnerships, companies, associations and corporations to furnish such information as the state tax commission may require concerning their capital, funded or other debt, current assets and liabilities, value of property, earnings, operating and other expenses, taxes and all other facts which that may be needed to enable the state tax commission to ascertain the value and the relative tax burden borne by all kinds of property in the state, and to require from all state and local officers such information as may be necessary to the proper discharge of the duties of the state tax commission.

(10) To visit, as a state tax commission or by individual members or agents thereof, whenever the state tax commission shall deem it necessary, each county of the state, for the investigation and direction of the work and methods of assessment and equalization, and to ascertain whether or not the provisions of law requiring the assessment of all property, not exempt from taxation, and just equalization of the same have been or are being properly administered and enforced.

(11) To carefully examine all cases where evasion or violation of the laws of assessment and taxation of property is alleged, complained of, or discovered, and to ascertain wherein existing laws are defective or are improperly or negligently administered.

(12) To correct its own errors in property assessment at any time before the ~~first third Monday in November~~, October and report such correction to the county auditor and county tax collector, who shall thereupon enter the correction upon the operating property roll.

(13) To apportion annually to the state and the respective counties any moneys received by the state from the United States or any agency thereof, as payments in lieu of property taxes; provided, that said moneys shall be apportioned in the same amounts, and to the same governmental divisions as the property taxes, in lieu of which payments are made, would be apportioned, if they were levied. The state treasurer and the state controller shall be bound, in making distribution of moneys so received, by the apportionment ordered by the state tax commission.

(14) To make administrative construction of property tax law whenever necessary or requested by any officer acting under such laws, and until judicially overruled, such administrative construction shall be binding upon the inquiring officer and all others acting under such laws.

(15) To require the attendance of any assessor in the state at such time and place as may be designated by the commission, and the actual and necessary expenses of any assessor in attending any such meeting shall be a legal claim against his county.

(16) To analyze the work of county assessors at any time and to have and possess all rights and powers of such assessors for the examination of persons and property, and for the discovery of property subject to taxation; and if it shall ascertain that any taxable property is omitted from the prop-

erty rolls or is not assessed or valued according to law, it shall bring the same to the attention of the assessor of the proper county in writing, and if such assessor shall neglect or refuse to comply with the request of the state tax commission to place such property on the property rolls, or correct such incorrect assessment or valuation, the state tax commission shall have the power to prepare a supplemental roll, which supplemental roll shall include all property required by the state tax commission to be placed on the property roll and all corrections to be made. Such supplement shall be filed with the assessor's property roll, and shall thereafter constitute an integral part thereof to the exclusion of all portions of the original property rolls inconsistent therewith, and shall be submitted therewith to the county board of equalization.

(17) To provide a program of education and an annual appraisal school for its employees, for county commissioners and for the assessors of the various counties of this state. Additionally, the state tax commission shall provide for the establishment of a property tax appraiser and cadastral certification program. Such program shall include, as at a minimum, a written examination prepared, administered and graded under the supervision and control of an examination committee; such committee is to be composed as the state tax commission may provide by rule. The state tax commission's rules shall include, but need not be limited to, the following:

(a) The composition of the examination committee, provided however, that the committee shall include a representative of the counties, an agent of the state tax commission and a representative of a professional appraisal association within this state. The representative of the counties together with the representatives of such professional appraisal association shall constitute a majority of the committee.

(b) The frequency with which the examination shall be given.

(c) A reasonable review procedure by which examinees having complaints may seek review of the examination committee.

(d) The establishment of a reasonable period of time within which a county appraiser must meet the certification requirements as a condition to continued employment by the county as a certified property tax appraiser.

(18) To report at least quarterly to the revenue and taxation committee of the house of representatives and to the joint senate finance-house appropriations committee on its program to assist the counties with the property tax assessments.

(19) To transmit to the governor and to the legislature, an annual report, with the state tax commission's recommendations as to such legislation as will correct or eliminate defects in the operations of the property tax laws and will equalize taxation within the state. Said annual report shall include a comprehensive study of the property tax laws and detailed statistical information concerning the operation of the property tax laws of this state. Said report shall be submitted prior to the meeting of any regular session of the legislature.

(20) To maintain a forest land and forest product tax section to perform the functions and duties of the state tax commission under the provisions of chapter 17, title 63, Idaho Code.

Approved March 1, 2018

CHAPTER 31
(H.B. No. 392)

AN ACT

RELATING TO ENERGY TAXES; AMENDING SECTION 63-3503, IDAHO CODE, TO PROVIDE A DATE BY WHICH THE IDAHO STATE TAX COMMISSION SHALL PROVIDE NOTIFICATION OF AN ELECTRICAL OPERATOR'S TAX ALLOTMENT AND APPORTIONMENT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3503A, IDAHO CODE, TO PROVIDE A DATE BY WHICH THE IDAHO STATE TAX COMMISSION SHALL PROVIDE NOTIFICATION OF A GAS OPERATOR'S TAX ALLOTMENT AND APPORTIONMENT AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 63-3503B, IDAHO CODE, TO PROVIDE A DATE BY WHICH THE IDAHO STATE TAX COMMISSION SHALL PROVIDE NOTIFICATION OF A WIND, SOLAR OR GEOTHERMAL ENERGY PRODUCER'S TAX ALLOTMENT AND APPORTIONMENT, TO REVISE THE DATE BY WHICH THE COUNTY AUDITOR SHALL PROVIDE NOTIFICATION REGARDING CERTAIN TAX APPORTIONMENT INFORMATION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 63-3503, Idaho Code, be, and the same is hereby amended to read as follows:

63-3503. FILING OPERATORS' STATEMENT -- ALLOTMENT AND APPORTIONMENT OF TAX DUE FROM ELECTRICAL ASSOCIATIONS BY STATE TAX COMMISSION. Every cooperative electrical association in this state shall file with the state tax commission of the state of Idaho the operators' statement provided for in section 63-404, Idaho Code, and shall include thereon a statement of the amount of its gross earnings for the calendar year next preceding. Upon examining and verifying said statement, the state tax commission shall compute the amount of the tax measured by the gross earnings and shall allot to each county in which the property of such association is ~~situate~~ situated, and otherwise exempted from taxation by section 63-602JJ, Idaho Code, that proportion of the total tax of such association shown to be due as the number of wire miles of transmission and distribution lines of such association ~~situate~~ situated in such county bears to the total wire miles of transmission and distribution lines of such association. The state tax commission shall then, for each county, apportion the tax so allotted to the county among the several taxing units thereof within which any property of such association is ~~situate~~ situated, and otherwise exempted from taxation by section 63-602JJ, Idaho Code, by apportioning to each such taxing unit that proportion of the tax so allotted to the county as the weighted wire mileage factor for each such taxing unit bears to the total of the weighted wire mileage factors of all such taxing units in the county, ~~and shall immediately~~. No later than the third Monday of May each year, the state tax commission shall notify the state superintendent of public instruction and the county treasurer of such allotment and apportionment and the amounts thereof.

SECTION 2. That Section 63-3503A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3503A. FILING OPERATORS' STATEMENT -- ALLOTMENT AND APPORTIONMENT OF TAX DUE FROM NATURAL GAS ASSOCIATIONS BY STATE TAX COMMISSION. Every cooperative natural gas association in this state shall file with the state tax commission of the state of Idaho the operators' statement provided for in section 63-404, Idaho Code, and shall include thereon a statement of the amount of its gross earnings for the calendar year next preceding. Upon examining and verifying said statement, the state tax commission shall com-

pute the amount of the tax measured by the gross earnings and shall allot to each county in which the property of such association is ~~situate~~ situated, and otherwise exempted from taxation by section 63-602JJ, Idaho Code, that proportion of the total tax of such association shown to be due as the number of gas line miles of transmission and distribution lines of such association ~~situate~~ situated in such county bears to the total wire miles of transmission and distribution lines of such association. The state tax commission shall then, for each county, apportion the tax so allotted to the county among the several taxing units thereof within which any property of such association is ~~situate~~ situated, and otherwise exempted from taxation by section 63-602JJ, Idaho Code, by apportioning to each such taxing unit that proportion of the tax so allotted to the county as the gas line mileage factor for each such taxing unit bears to the total of the gas line mileage factors of all such taxing units in the county, ~~and shall immediately~~. No later than the third Monday of May each year, the state tax commission shall notify the state superintendent of public instruction and the county treasurer of such allotment and apportionment and the amounts thereof.

SECTION 3. That Section 63-3503B, Idaho Code, be, and the same is hereby amended to read as follows:

63-3503B. FILING OPERATORS' STATEMENTS -- ALLOTMENT AND APPORTIONMENT OF TAX DUE FROM PRODUCERS OF ELECTRICITY BY MEANS OF WIND ENERGY, SOLAR ENERGY OR GEOTHERMAL ENERGY BY STATE TAX COMMISSION. Every producer of electricity by means of wind energy, by means of solar energy or by means of geothermal energy in this state shall file with the state tax commission of the state of Idaho an operator's statement in the manner as provided for in section 63-404, Idaho Code, and shall include thereon a statement of the prior calendar year's gross wind energy earnings, gross solar energy earnings or gross geothermal energy earnings. Upon examining and verifying said statement, the state tax commission shall compute the amount of the wind energy tax, solar energy tax or the geothermal energy tax based on the gross wind energy earnings, gross solar energy earnings or the gross geothermal energy earnings and shall allot to each county in which the property of such producer is ~~situate~~ situated, and otherwise exempted from taxation by section 63-602JJ, Idaho Code, either: that proportion of the total wind energy tax, that proportion of the total solar energy tax or that proportion of the total geothermal energy tax of such producer shown to be due as the same proportion that the total original cost of property ~~situate~~ situated in such county, and otherwise exempted from taxation by section 63-602JJ, Idaho Code, bears to the total original cost of such property of such producer for the wind energy project, of such producer for the solar energy project or of such producer for the geothermal energy project. The state tax commission shall then, for each county, apportion the wind energy tax, solar energy tax or geothermal energy tax so allotted to such county among the several taxing units thereof within which any property of such producer is ~~situate~~ situated, and otherwise exempted from taxation by section 63-602JJ, Idaho Code, by apportioning to each such taxing unit that proportion of the wind energy tax, solar energy tax or geothermal energy tax so allotted to such county. For such apportionment, the state tax commission shall calculate the weighted original cost which shall be the product of the original cost of such property within such taxing unit times such taxing unit's property tax levy for the prior year and the weighted apportionment rate which shall be the ratio of the wind energy tax, of the solar energy tax or of the geothermal energy tax, as the case may be, allotted to such county, to the aggregate weighted original cost for all such taxing units within which the property is located and then shall calculate the apportionment of the wind energy tax, solar energy tax or geothermal energy tax for each such taxing unit to be equal to the product of the weighted original cost times the weighted

apportionment rate. The state tax commission shall, on or before the ~~second~~ third Monday in ~~August~~ May, notify the state superintendent of public instruction, the county auditor, and the county treasurer of such allotment and apportionment and the amounts thereof. On or before the ~~third~~ first Monday in August, the county auditor shall notify the appropriate taxing units of the amount of wind energy tax, the amount of solar energy tax or the amount of the geothermal energy tax being apportioned and the amount of the solar energy tax distributed to each of these taxing units during the twelve (12) months immediately preceding July 1 of the current tax year.

Approved March 1, 2018

CHAPTER 32
(H.B. No. 393)

AN ACT

RELATING TO THE IDAHO IMMUNIZATION ASSESSMENT BOARD; AMENDING SECTION 41-6003, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE IDAHO IMMUNIZATION ASSESSMENT BOARD; AMENDING SECTION 41-6006, IDAHO CODE, TO REVISE PROVISIONS REGARDING LATE OR NONPAYMENT OF ASSESSMENTS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 1, CHAPTER 97, LAWS OF 2017, TO EXTEND A SUNSET DATE.

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

SECTION 1. That Section 41-6003, Idaho Code, be, and the same is hereby amended to read as follows:

41-6003. IDAHO IMMUNIZATION ASSESSMENT BOARD. (1) There is hereby created in the Idaho department of insurance the Idaho immunization assessment board. The board will perform an essential governmental function in the exercise of powers conferred upon it by this chapter and shall be a governmental entity within the meaning of chapter 9, title 6, Idaho Code.

(2) The board shall consist of ~~nine~~ ten (910) members and one (1) ex officio member:

(a) ~~Six~~ Seven (67) members shall be appointed by the director and serve at the pleasure of the director. In selecting the members of the board, the director shall appoint:

(i) Three (3) members representing carriers, one (1) of whom shall represent administrators or third-party administrators;

(ii) One (1) primary care physician licensed and practicing in Idaho; and

(iii) ~~Two~~ Three (23) members representing the Idaho business community, one (1) of whom shall represent a private self-funded insurance plan;

(b) One (1) member appointed by the director of the department of health and welfare;

(c) One (1) member shall be a member of the senate, appointed by the president pro tempore of the senate;

(d) One (1) member shall be a member of the house of representatives, appointed by the speaker of the house of representatives; and

(e) The director or his the director's designated representative shall serve as an ex officio ~~tenth~~ eleventh member of the board.

(3) The initial board members appointed by the director pursuant to subsection (2) (a) of this section shall be appointed as follows: Legislative members of the board shall serve for a term of two (2) years.

(a) Two (2) members, as determined by the director, shall serve an initial term of two (2) years;

(b) Two (2) members, as determined by the director, shall serve an initial term of three (3) years; and

(c) One (1) member, as determined by the director, shall serve an initial term of four (4) years.

Subsequent board members appointed by the director pursuant to subsection (2) (a) of this section shall serve for terms of three (3) years.

(4) A vacancy on the board appointed by the director pursuant to subsection (2) (a) of this section shall be filled by the director. A vacancy in a legislative member's position on the board shall be filled in the same manner as the original appointment.

(5) Except for employees of the state of Idaho, members of the board shall not receive compensation or reimbursement for expenses for their service on the board. Employees of the state of Idaho serving on the board shall be reimbursed for their vouched expenses associated with their service on the board in a manner consistent with policy for other state employees.

SECTION 2. That Section 41-6006, Idaho Code, be, and the same is hereby amended to read as follows:

41-6006. ASSESSMENTS. (1) The department of health and welfare shall report to the board on or before January 1 the total number of program_eligible children in the Idaho immunization reminder information system registry who received vaccines, the doses and the total nonvaccine-for-children funds expended for vaccines purchased and administered through the Idaho immunization program for the previous state fiscal year and any other information appropriate or necessary to enable the board to properly determine assessments under the provisions of this chapter.

(2) The assessments to fund vaccine purchases for program_eligible children shall be made annually by the board. Each carrier's proportion of the assessment and the dates upon which the carrier must pay the assessment into the fund shall be determined by the board based on annual statements and other reports deemed necessary by the board. In making the assessment determination, the board shall consider such factors as any surplus funds remaining from a prior assessment, the number and cost of vaccine doses expected to be administered in the pertinent time period and the number of program_eligible children in the pertinent time period, as well as any necessary costs and expenses to administer the fund and discharge the duties of the board. The annual assessment shall be calculated to provide funding that, at a minimum, is expected to be sufficient to cover the administrative costs of the board and fund the purchase of vaccines for program_eligible children that have in effect a recommendation from the advisory committee on immunization practices of the centers for disease control and prevention on the date the board makes its assessment determination.

(3) For late or nonpayment of assessments by a carrier, the director shall ~~impose interest at the rate provided by section 28-22-104(1), Idaho Code,~~ and may impose such other penalties as provided in title 41, Idaho Code.

(4) Except as otherwise provided in this subsection, a carrier shall pay an assessment made by the board within sixty (60) days of the notice of assessment being sent to the carrier. For good cause, a carrier may seek from the director a deferment from all or part of an assessment imposed by the board. The director may defer all or part of the assessment if the director determines that the payment of the assessment would place the carrier in a financially impaired condition, as provided in title 41, Idaho Code. If all or part of an assessment against a carrier is deferred, the amount deferred shall be assessed against the other carriers in a manner consistent with the basis for assessment set forth in this section. The carrier receiving the deferment shall remain liable to the fund for the amount deferred and shall

be prohibited from insuring any new individuals in the state of Idaho until such time as it pays the assessments.

(5) The moneys raised by the assessment authorized in this section shall be used solely for the purposes expressly authorized by this chapter.

SECTION 3. That Section 1, Chapter 97, Laws of 2017, be, and the same is hereby amended to read as follows:

SECTION 4. The provisions of this Chapter 60, Title 41 shall be null, void and of no force and effect on and after July 1, 2019~~24~~.

Approved March 1, 2018

CHAPTER 33
(H.B. No. 451)

AN ACT

RELATING TO INCOME TAX CREDITS; AMENDING SECTION 63-3029A, IDAHO CODE, TO PROVIDE AN INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS MADE TO RESIDENCY PROGRAMS ACCREDITED BY THE ACCREDITATION COUNCIL FOR GRADUATE MEDICAL EDUCATION OR THE AMERICAN OSTEOPATHIC ASSOCIATION OR THEIR DESIGNATED NONPROFIT SUPPORT ORGANIZATIONS BASED IN IDAHO AND DEVOTED TO TRAINING RESIDENTS IN IDAHO; AMENDING SECTION 63-3029A, IDAHO CODE, AS AMENDED BY SECTION 3, CHAPTER 78, LAWS OF 2016, TO PROVIDE AN INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS MADE TO RESIDENCY PROGRAMS ACCREDITED BY THE ACCREDITATION COUNCIL FOR GRADUATE MEDICAL EDUCATION OR THE AMERICAN OSTEOPATHIC ASSOCIATION OR THEIR DESIGNATED NONPROFIT SUPPORT ORGANIZATIONS BASED IN IDAHO AND DEVOTED TO TRAINING RESIDENTS IN IDAHO; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 63-3029A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029A. INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS -- LIMITATION. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to fifty percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during the year to a nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of institutions of higher learning located within the state of Idaho, including a university related research park, to nonprofit private or public institutions of elementary, secondary, or higher education or their foundations located within the state of Idaho, to a nonprofit corporation, fund, foundation, trust or association which is: (i) organized and operated exclusively for the benefit of elementary or secondary education institutions located within the state of Idaho; (ii) officially recognized and designated by resolution of the applicable governing board as any such elementary or secondary education institution's sole designated supporting organization; and (iii) qualified to be exempt from federal taxation under the terms of section 501(c) (3) of the Internal Revenue Code, for the express purpose of supplementing and enhancing a thorough system of public schools as defined in section 33-1612, Idaho Code, or supplementing and enhancing the private school which is the beneficiary, to Idaho education public broadcast system foundations within the state of Idaho, to the Idaho state historical society or its foundation, to the council for the deaf and hard of

hearing, to the developmental disabilities council, to the commission for the blind and visually impaired, to the commission on Hispanic affairs, to the state independent living council, to the Idaho commission for libraries and to public libraries or their foundations and library districts or their foundations located within the state of Idaho, to the Idaho STEM action center, to nonprofit public or private museums or their foundations located within the state of Idaho, to residency programs accredited by the accreditation council for graduate medical education or the American osteopathic association or their designated nonprofit support organizations based in Idaho and devoted to training residents in Idaho and to dedicated accounts within the Idaho community foundation inc. that exclusively support the charitable purposes otherwise qualifying for the tax credit authorized under the provisions of this section.

(1) In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed fifty percent (50%) of such taxpayer's total income tax liability imposed by section 63-3024, Idaho Code, for the year, or five hundred dollars (\$500), whichever is less.

(2) In the case of a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed ten percent (10%) of such corporation's total income or franchise tax liability imposed by sections 63-3025 and 63-3025A, Idaho Code, for the year, or five thousand dollars (\$5,000), whichever is less.

For the purposes of this section, "contribution" means monetary donations reduced by the value of any benefit received in return such as food, entertainment or merchandise.

For the purposes of this section, "institution of higher learning" means only an educational institution located within this state meeting all of the following requirements:

- (a) It maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its educational activities are carried on.
- (b) It regularly offers education above the twelfth grade.
- (c) It is accredited by the northwest commission on colleges and universities.

For the purposes of this section, a nonprofit institution of secondary or higher education means a private nonprofit secondary or higher educational institution located within the state of Idaho, which is accredited by the northwest commission on colleges and universities, or accredited by a body approved by the state board of education. A nonprofit private institution of elementary education means a private nonprofit elementary educational institution located within the state of Idaho and accredited by the state board of education pursuant to section 33-119, Idaho Code.

For the purposes of this section, "organized and operated exclusively for the benefit of elementary or secondary education institutions" means having an explicit provision in the supporting organization's bylaws or other governing document that expressly identifies the elementary or secondary schools, or one (1) or more school districts, in the state of Idaho that will be the exclusive beneficiary of the distributions of the nonprofit corporation, fund, foundation, trust or association.

For the purposes of this section, a nonprofit corporation, fund, foundation, trust or association that invests contributions in an endowment or otherwise shall be subject to the standards of care imposed under section 33-5003, Idaho Code.

SECTION 2. That Section 63-3029A, Idaho Code, as amended by Section 3, Chapter 78, Laws of 2016, be, and the same is hereby amended to read as follows:

63-3029A. INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS -- LIMITATION. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to fifty percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during the year to a nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of institutions of higher learning located within the state of Idaho, including a university related research park, to nonprofit private or public institutions of elementary, secondary, or higher education or their foundations located within the state of Idaho, to Idaho education public broadcast system foundations within the state of Idaho, to the Idaho state historical society or its foundation, to the council for the deaf and hard of hearing, to the developmental disabilities council, to the commission for the blind and visually impaired, to the commission on Hispanic affairs, to the state independent living council, to the Idaho commission for libraries and to public libraries or their foundations and library districts or their foundations located within the state of Idaho, to the Idaho STEM action center, to nonprofit public or private museums or their foundations located within the state of Idaho, to residency programs accredited by the accreditation council for graduate medical education or the American osteopathic association or their designated nonprofit support organizations based in Idaho and devoted to training residents in Idaho and to dedicated accounts within the Idaho community foundation inc. that exclusively support the charitable purposes otherwise qualifying for the tax credit authorized under the provisions of this section.

(1) In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed fifty percent (50%) of such taxpayer's total income tax liability imposed by section 63-3024, Idaho Code, for the year, or five hundred dollars (\$500), whichever is less.

(2) In the case of a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed ten percent (10%) of such corporation's total income or franchise tax liability imposed by sections 63-3025 and 63-3025A, Idaho Code, for the year, or five thousand dollars (\$5,000), whichever is less.

For the purposes of this section, "contribution" means monetary donations reduced by the value of any benefit received in return such as food, entertainment or merchandise.

For the purposes of this section, "institution of higher learning" means only an educational institution located within this state meeting all of the following requirements:

- (a) It maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its educational activities are carried on.
- (b) It regularly offers education above the twelfth grade.
- (c) It is accredited by the northwest commission on colleges and universities.

For the purposes of this section, a nonprofit institution of secondary or higher education means a private nonprofit secondary or higher educational institution located within the state of Idaho, which is accredited by the northwest commission on colleges and universities, or accredited by a body approved by the state board of education. A nonprofit private institution of elementary education means a private nonprofit elementary educational institution located within the state of Idaho and accredited by the state board of education pursuant to section 33-119, Idaho Code.

For the purposes of this section, a nonprofit corporation, fund, foundation, trust or association that invests contributions in an endowment or otherwise shall be subject to the standards of care imposed under section 33-5003, Idaho Code.

SECTION 3. Section 2 of this act shall be in full force and effect on and after January 1, 2020.

Approved March 1, 2018

CHAPTER 34
(H.B. No. 337)

AN ACT

RELATING TO BEHAVIORAL HEALTH; AMENDING SECTION 39-3122, IDAHO CODE, TO DEFINE TERMS; AMENDING SECTION 39-3125, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE STATE BEHAVIORAL HEALTH PLANNING COUNCIL; AND AMENDING SECTION 39-3134, IDAHO CODE, TO REVISE PROVISIONS REGARDING REGIONAL BEHAVIORAL HEALTH BOARDS.

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

SECTION 1. That Section 39-3122, Idaho Code, be, and the same is hereby amended to read as follows:

39-3122. DEFINITIONS. (1) "Behavioral health" means an integrated system for evaluation and treatment of mental health and substance use disorders.

(2) "Family support partner" means an individual who:

(a) Has lived experience caring for a child with a behavioral health diagnosis, mental illness or mental illness with a co-occurring substance use disorder;

(b) Has specialized training related to such care; and

(c) Has successfully navigated the various systems of care.

(3) "Peer support specialist" means an individual in recovery from mental illness or mental illness with a co-occurring substance use disorder who uses his or her lived experience and specialized training to assist other individuals in their own recovery.

(4) "Recovery coach" means an individual who has lived experience of recovery from a substance use disorder or co-occurring mental illness, either as a person in recovery or as a family member or significant other who uses his or her lived experience and specialized training to assist other individuals in their own recovery.

(5) "Region" means the administrative regions as defined by the department of health and welfare. Two (2) or more regions may consolidate for the purposes of this chapter. For the purposes of this chapter, regions will be consistent with judicial districts.

(6) "Supportive services" means ancillary non-clinical services provided as part of community family support and recovery support to promote and sustain the ability of individuals with behavioral health disorders to live in the community and avoid institutionalization. Supportive services include services provided by a family support partner, peer support specialist or recovery coach.

SECTION 2. That Section 39-3125, Idaho Code, be, and the same is hereby amended to read as follows:

39-3125. STATE BEHAVIORAL HEALTH PLANNING COUNCIL. (1) A state behavioral health planning council, hereinafter referred to as the planning council, shall be established to serve as an advocate for children and adults with behavioral health disorders; to advise the state behavioral health authority on issues of concern, on policies and on programs and to provide guidance to the state behavioral health authority in the development and implementation of the state behavioral health systems plan; to monitor and evaluate the allocation and adequacy of behavioral health services within the state on an ongoing basis; to monitor and evaluate the effectiveness of state laws that address behavioral health services; to ensure that individuals with behavioral health disorders have access to prevention, treatment and rehabilitation services; to serve as a vehicle for policy and program development; and to present to the governor, the judiciary and the legislature by June 30 of each year a report on the council's activities and an evaluation of the current effectiveness of the behavioral health services provided directly or indirectly by the state to adults and children. The planning council shall establish readiness and performance criteria for the regional boards to accept and maintain responsibility for family support and recovery support services. The planning council shall evaluate regional board adherence to the readiness criteria and make a determination if the regional board has demonstrated readiness to accept responsibility over the family support and recovery support services for the region. The planning council shall report to the behavioral health authority if it determines a regional board is not fulfilling its responsibility to administer the family support and recovery support services for the region and recommend the regional behavioral health centers assume responsibility over the services until the board demonstrates it is prepared to regain the responsibility.

(2) The planning council shall be appointed by the governor and be comprised of no more than fifty percent (50%) state employees or providers of behavioral health services. Membership shall also reflect to the extent possible the collective demographic characteristics of Idaho's citizens. The planning council membership shall include representation from consumers; families of adults with serious mental illness or substance use disorders; behavioral health advocates; prevention specialists; principal state agencies and the judicial branch with respect to behavioral health, education, vocational rehabilitation, adult correction, juvenile justice and law enforcement, title XIX of the social security act and other entitlement programs; public and private entities concerned with the need, planning, operation, funding and use of mental health services or substance use disorders, and related support services; and the regional behavioral health board in each department of health and welfare region as provided for in section 39-3134, Idaho Code. The planning council may include members of the legislature.

(3) The planning council members will serve a term of two (2) years or at the pleasure of the governor, provided however, that of the members first appointed, one-half (1/2) of the appointments shall be for a term of one (1) year and one-half (1/2) of the appointments shall be for a term of two (2) years. The governor will appoint a chair and a vice-chair whose terms will be two (2) years.

(4) The council may establish subcommittees at its discretion.

SECTION 3. That Section 39-3134, Idaho Code, be, and the same is hereby amended to read as follows:

39-3134. REGIONAL BEHAVIORAL HEALTH BOARD -- MEMBERS -- TERMS -- APPOINTMENT. A regional behavioral health board for each region shall consist of twenty-~~twethree~~ (223) members and shall be appointed as provided herein. All meetings of the regional behavioral health board shall be held in accordance with the open meetings law as provided for in chapter 2, title 74, Idaho

Code. Members shall be comprised of the following: three (3) county commissioners ~~or their designee~~; two (2) department of health and welfare employees who represent the behavioral health system within the region; one (1) parent of a child with a serious emotional disturbance; one (1) parent of a child with a substance use disorder; a law enforcement officer; one (1) adult mental health services consumer representative; one (1) mental health advocate; one (1) substance use disorder advocate; one (1) adult substance use disorder services consumer representative; one (1) family member of an adult mental health services consumer; one (1) family member of an adult substance use disorder services consumer; one (1) prevention specialist; a private provider of mental health services within the region; a private provider of substance use disorder services within the region; a representative of the elementary or secondary public education system within the region; a representative of the juvenile justice system within the region; a representative of the adult correction system within the region; a representative of the judiciary appointed by the administrative district judge; a physician or other licensed health practitioner from within the region; and a representative of a hospital within the region. The consumer, parent and family representatives shall be selected from nominations submitted by behavioral health consumer and advocacy organizations. The board may have nonvoting members as necessary to fulfill its roles and responsibilities. The board shall meet at least twice each year and shall annually elect a chairperson and other officers as it deems appropriate.

~~On the effective date of this chapter, the~~ appointing authority in each region shall be a ~~committee composed of the chairperson of the board of county commissioners of each of the counties within the region, the current chair of the regional mental health board and the current chair of the regional advisory committee and, after the initial appointment of members to the regional behavioral health board,~~ the current chair of the regional behavioral health board, and one (1) representative of the department of health and welfare and one (1) chair of a board of county commissioners of a county situated within the region. The committee shall meet annually or as needed to fill vacancies on the board.

~~The appointing authority in each region shall determine if members of the regional mental health board and the regional advisory committee who are serving on the effective date of this chapter may continue to serve until the end of the current term of their appointment or they may end all current appointments and create the board membership based upon the requirements of this section. If the appointing authority decides to allow current members of the board to serve out their current terms, appointments made after the effective date of this chapter shall be made in a manner to achieve the representation provided in this section as soon as reasonably practical.~~

The term of each member of the board shall be for four (4) years; provided however, that of the members first appointed, one-third (1/3) from each region shall be appointed for a term of two (2) years; one-third (1/3) for a term of three (3) years; and one-third (1/3) for a term of four (4) years. After the membership representation required in this section is achieved, vacancies shall be filled for the unexpired term in the same manner as original appointments. Board members shall be compensated as provided for in section 59-509(b), Idaho Code, and such compensation shall be paid from the operating budget of the regional behavioral health board as resources allow.

Approved March 7, 2018

CHAPTER 35
(H.B. No. 339)

AN ACT

RELATING TO PHARMACY; AMENDING CHAPTER 17, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1768, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING CERTAIN DRUG PRODUCT SUBSTITUTIONS.

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

SECTION 1. That Chapter 17, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-1768, Idaho Code, and to read as follows:

54-1768. PRESCRIBER-AUTHORIZED SUBSTITUTION. (1) A licensed prescriber may authorize a pharmacist to substitute a drug with another drug in the same therapeutic class that would, in the opinion of the pharmacist, have a substantially equivalent therapeutic effect even though the substitute drug is not a therapeutic equivalent drug, provided the following conditions are met:

- (a) The prescriber has clearly indicated that drug product substitution is permissible by indicating "therapeutic substitution allowed" or by making a similar designation;
 - (b) The drug product substitution is intended to ensure formulary compliance with the patient's health insurance plan or, in the case of a patient without insurance, to lower the cost to the patient while maintaining safety;
 - (c) The patient opts in to the drug product substitution, and the pharmacist clearly informs the patient of the differences in the drug products and specifies that the patient may refuse the substitution; and
 - (d) If a drug product substitution is made:
 - (i) The prescriber's directions are modified to allow for an equivalent amount of drug to be dispensed as prescribed; and
 - (ii) The pharmacist shall notify the patient's original prescriber of the drug product substitution within five (5) business days of dispensing the prescription.
- (2) Nothing in this section shall apply to biological products, as set forth in section 54-1769, Idaho Code, or to narrow therapeutic index drugs.
- (3) For purposes of this section:
- (a) "Drug product substitution" means dispensing a drug product other than the drug product originally prescribed.
 - (b) "Narrow therapeutic index drug" means a drug where a small difference in dose or blood concentration may lead to serious therapeutic failures or adverse drug reactions.
 - (c) "Therapeutic class" means a group of similar drug products that have the same or similar mechanisms of action and are used to treat a specific condition.
 - (d) "Therapeutic equivalent drug" means a product assigned an "A" code by the federal food and drug administration (FDA) in the "Approved Products with Therapeutic Equivalence Evaluations" (orange book) and animal drug products published in the FDA's "Approved Animal Drug Products" (green book).

Approved March 7, 2018

CHAPTER 36
(H.B. No. 340)

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTION 37-2705, IDAHO CODE, TO REVISE THE LIST OF SCHEDULE I CONTROLLED SUBSTANCES; REPEALING SECTION 37-2714, IDAHO CODE, RELATING TO REPUBLISHING OF SCHEDULES; REPEALING SECTION 37-2721, IDAHO CODE, RELATING TO ORDER FORMS; AMENDING SECTION 37-2722, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE ISSUING, DISTRIBUTING AND DISPENSING OF CONTROLLED SUBSTANCES; REPEALING SECTION 37-2723, IDAHO CODE, RELATING TO FORM AND CONTENT OF PRESCRIPTIONS; REPEALING SECTION 37-2724, IDAHO CODE, RELATING TO ORDERS FOR A SCHEDULE II SUBSTANCE; AMENDING SECTION 37-2725, IDAHO CODE, TO REVISE PROVISIONS REGARDING PRESCRIPTION DRUG ORDER BLANKS; AMENDING SECTION 37-2727, IDAHO CODE, TO REVISE PROVISIONS REGARDING CONTROLLED SUBSTANCES IN OPIOID TREATMENT PROGRAMS; AMENDING SECTION 37-2731, IDAHO CODE, TO REVISE PROVISIONS REGARDING CONTROLLED SUBSTANCE PACKAGE LABELS; AND AMENDING SECTION 37-2734, IDAHO CODE, TO REVISE A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS.

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

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

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

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

- (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);
- (2) Acetylmethadol;
- (3) Acetyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide);
- (4) Allylprodine;
- (45) Alphacetylmethadol (except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate or LAAM);
- (56) Alphameprodine;
- (67) Alphamethadol;
- (78) Alpha-methylfentanyl;
- (89) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
- (910) Benzethidine;
- (101) Betacetylmethadol;
- (112) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);
- (123) Beta-hydroxy-3-methylfentanyl (N-(1-(2-hydroxy-2-phenethyl)-3methyl-4-piperidinyl)-N-phenylpropanamide);
- (134) Betameprodine;
- (145) Betamethadol;
- (156) Betaprodine;
- (167) Clonitazene;
- (178) Dextromoramide;
- (189) Diampromide;
- (1920) Diethylthiambutene;
- (201) Difenoxin;

(212) Dimenoxadol;
 (223) Dimepheptanol;
 (234) Dimethylthiambutene;
 (245) Dioxaphetyl butyrate;
 (256) Dipipanone;
 (267) Ethylmethylthiambutene;
 (278) Etonitazene;
 (289) Etoxeridine;
 (2930) Furethidine;
 (301) Hydroxypethidine;
 (312) Ketobemidone;
 (323) Levomoramide;
 (334) Levophenacylmorphan;
 (345) 3-Methylfentanyl;
 (356) 3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
 (367) Morpheridine;
 (378) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
 (389) Noracymethadol;
 (3940) Norlevorphanol;
 (401) Normethadone;
 (412) Norpipanone;
 (423) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide);
 (434) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
 (445) Phenadoxone;
 (456) Phenampromide;
 (467) Phenomorphan;
 (478) Phenoperidine;
 (489) Piritramide;
 (4950) Proheptazine;
 (501) Properidine;
 (512) Propiram;
 (523) Racemoramide;
 (534) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);
 (545) Tilidine;
 (556) Trimeperidine;
 (567) u-47700 (3,4-Dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide).

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

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Drotebanol;
- (10) Etorphine (except hydrochloride salt);
- (11) Heroin;
- (12) Hydromorphanol;
- (13) Methyldesorphine;
- (14) Methyldihydromorphine;
- (15) Morphine methylbromide;

- (16) Morphine methylsulfonate;
- (17) Morphine-N-Oxide;
- (18) Myrophine;
- (19) Nicocodeine;
- (20) Nicomorphine;
- (21) Normorphine;
- (22) Pholcodine;
- (23) Thebacon.

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

- (1) 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) Marihuana;
- (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. Any compound structurally derived from 3-(1-naphthyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring to any extent, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent.
- c. Any compound structurally derived from 1-(1-naphthylmethyl)indene by substitution at the 3-position of the indene ring to any extent, whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent.
- d. Any compound structurally derived from 3-phenylacetylindole by substitution at the nitrogen atom of the indole ring to any extent, whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent.
- e. Any compound structurally derived from 2-(3-hydroxycyclohexyl)phenol by substitution at the 5-position of the phenolic ring to any extent, whether or not substituted in the cyclohexyl ring to any extent.
- f. Any compound structurally derived from 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring to any extent, whether or not further sub-

stituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent.

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

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

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

(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) Fenethylamine;

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

- (6) (+/-) cis-4-methylaminorex [(+/-) cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine];
- (7) N-benzylpiperazine (also known as: BZP, 1-benzylpiperazine);
- (8) N-ethylamphetamine;
- (9) N,N-dimethylamphetamine (also known as: N,N-alpha-trimethyl-benzeethanamine).

SECTION 2. That Section 37-2714, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 37-2721, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 37-2722, Idaho Code, be, and the same is hereby amended to read as follows:

37-2722. PRESCRIPTIONS ISSUING, DISTRIBUTING AND DISPENSING OF CONTROLLED SUBSTANCES. No person shall issue or dispense a prescription drug order for a controlled substance unless it is in compliance with applicable state and federal law and rules of the board.

~~(a) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no cControlled substances included in schedule II may be dispensed without the written prescription of a practitioner shall be distributed only by a registrant to another registrant pursuant to the federal drug enforcement administration (DEA) order form 222.~~

~~(b) In emergency situations, as defined by rule of the board, schedule II drugs may~~ Controlled substances included in schedule II shall:

(1) Be distributed only by a registrant to another registrant pursuant to DEA order form 222.

(2) bBe dispensed upon oral only pursuant to a valid prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of section 37-2720, Idaho Code. No prescription for a schedule II substance may be refilled drug order, except when dispensed directly by a prescriber.

(3) Not be refilled.

(4) Include a quantity that is both spelled out in English and written in numerical form, when a written prescription drug order is required.

~~(c) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a cControlled substances included in schedule III or IV, which is a prescription drug as determined under this act or regulation of the bureau or the board, shall:~~

(1) not bBe dispensed without a written or oral only pursuant to a valid prescription of a practitioner drug order, except when dispensed directly by a prescriber.

(2) The prescription shall nNot be filled or refilled more than six (6) months after the date thereof or be refilled more than five (5) times, unless renewed by the practitioner.

~~(d) A cControlled substances included in schedule V shall not be distributed or dispensed other than for a medical purpose.~~

~~(e) Solely for the purpose of allowing the dispensing of A pharmacist may dispense a controlled substances pursuant to the a valid prescription drug order of an individual licensed in a jurisdiction other than the state of Idaho, and for no other purpose under this act, with respect to the written or oral prescription of a "practitioner" as required under subsections (a), (b) and (c) of this section, the term "practitioner" shall also include a physician, dentist, veterinarian, scientific investigator or other individual, other than a pharmacy licensed in a jurisdiction other than the state of Idaho, and permitted by such license to dispense, conduct research with~~

~~respect to or administer the prescribed controlled substance in the course of his professional practice or research in such jurisdiction, so as long as the individual is acting within the jurisdiction, scope and authority of his license when issuing the written or oral prescription.~~

SECTION 5. That Section 37-2723, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Section 37-2724, Idaho Code, be, and the same is hereby repealed.

SECTION 7. That Section 37-2725, Idaho Code, be, and the same is hereby amended to read as follows:

~~37-2725. PRESCRIPTION REQUIRED --- PRESCRIPTION DRUG ORDER BLANKS -- POSSESSION --- TRANSFERENCE --- CONTENTS.~~ (1) ~~A prescription shall be required for all scheduled drugs.~~ Paper prescriptions drug order blanks shall comply with federal law and shall utilize noncopyable paper that contains security provisions against copying that results in some indication on the copy that it is a copy and therefore rendering it null and void.

(2) Prescription drug order blanks shall not be transferable. Any person possessing any such blank otherwise than is herein provided is guilty of a misdemeanor.

(3) The prescription drug order blank shall contain the name and address of the practitioner prescriber. Prescription drug order blanks may contain the printed names of multiple practitioners prescribers who are affiliated; provided however, such prescription drug order blanks shall contain a means, in addition to the signature of the practitioner prescriber, such as a box or a check, for clear identification of the printed name and address of the practitioner prescriber issuing the prescription.

(4) Prescriptions written by a practitioner prescriber in a hospital, nursing home, ambulatory surgery center an institutional facility or other health care facility in which a practitioner prescriber may attend a patient, other than his or her regular place of business, may be written on prescription drug order blanks kept or provided by that facility that contain the name and address of that facility, but not necessarily of the practitioner prescriber, provided the practitioner's prescriber's name must be stamped, written or printed on the completed prescription in a manner that is legible to a pharmacist.

(5) Failure of a practitioner prescriber to clearly mark the practitioner's prescriber's printed name and address on the prescription as required in subsection (3) of this section, or to stamp, write or print the practitioner's prescriber's name legibly as required in subsection (4) of this section shall subject the practitioner prescriber to appropriate discipline by the board. ~~The disciplinary measures shall be established by the board in a rule developed through negotiated rulemaking.~~

(6) ~~Except as provided in section 37-2722, Idaho Code, if a paper prescription is for a schedule II substance, the practitioner shall indicate the desired quantity of the scheduled drug on the prescription blank by both writing out the quantity and by indicating or writing the quantity in numerical form.~~

~~(7) Prescription drug order blanks or drugs lost or stolen must be immediately reported to the board.~~

SECTION 8. That Section 37-2727, Idaho Code, be, and the same is hereby amended to read as follows:

~~37-2727. CONTROLLED SUBSTANCES IN OPIOID (NARCOTIC) TREATMENT PROGRAMS.~~ (1) At a facility with a controlled substance registration certificate issued by the United States department of justice, drug enforcement

administration, for the operation of a narcotic treatment program, a nurse licensed under chapter 14, title 54, Idaho Code, may, pursuant to a valid order of a physician licensed under chapter 18, title 54, Idaho Code:

- (a) Prepare and administer to a patient at that facility a controlled substance whether or not a practitioner is present; and
- (b) Deliver at that facility to a patient for subsequent use by the patient off-site, take-home doses of a controlled substance, provided that:

- (i) The patient is entitled to receive take-home doses of the controlled substance;
- (ii) The take-home doses delivered by the nurse to the patient were obtained at the facility by the nurse from a locked storage area suitable to prevent unauthorized access and to ensure a proper environment for preservation of the drugs within such area; and
- (iii) ~~The take-home doses were prepared pursuant to a valid prescription drug order of the physician by a pharmacist licensed under chapter 17, title 54, Idaho Code, and were delivered by the pharmacist to the locked storage area at the facility provided in a suitable container appropriately labeled for subsequent delivery by the nurse to the patient and for subsequent use by the patient entitled to receive the take-home doses of the controlled substance.~~

(2) A nurse acting under the authority of this section is exempt from the registration requirements imposed by this chapter.

(3) The facility must be registered under chapter 17, title 54, Idaho Code.

SECTION 9. That Section 37-2731, Idaho Code, be, and the same is hereby amended to read as follows:

37-2731. INFORMATION REQUIRED ON LABEL. ~~(a) The A practitioner dispensing with statutory authority to dispense a controlled substance listed in schedule II shall affix to the package a label showing date of dispensing, the dispenser's name and address, the serial number of the prescription if applicable, the name of the patient, the name of the prescribing practitioner, and directions for use and cautionary statements, if any, contained in such prescription as required by law pursuant to board rule.~~

~~(b) The practitioner dispensing controlled substances listed in schedule III or IV shall affix to the package a label showing the dispenser's name and address, the serial number if applicable, and date of initial dispensing, the name of the patient, the name of the practitioner issuing the prescription, and directions for use and cautionary statements, if any, contained in such prescription as required by law.~~

~~(c) The practitioner dispensing a controlled substance listed in schedule V pursuant to a prescription shall affix to the package a label showing the dispenser's name and address, the serial number if applicable, and the date of dispensing, the name of the patient, the name of the practitioner issuing the prescription, the directions for use and cautionary statements, if any, contained in such prescription as required by law.~~

SECTION 10. That Section 37-2734, Idaho Code, be, and the same is hereby amended to read as follows:

37-2734. PROHIBITED ACTS C -- PENALTIES. (a) It is unlawful for any person knowingly or intentionally:

- (1) ~~to distribute as a registrant a controlled substance classified in schedules I or II, except pursuant to an order form as required by the requirements of section 37-2721~~2~~, Idaho Code;~~

(2) ~~to~~ To use in the course of the manufacture or distribution of a controlled substance a registration number which is fictitious, revoked, suspended, or issued to another person;

(3) ~~to~~ To acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge;

(4) ~~to~~ To furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this act, or any record required to be kept by this act; or

(5) ~~to~~ To make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render the drug a counterfeit substance.

(b) Any person who violates this section is guilty of a felony and upon conviction may be imprisoned for not more than four (4) years, or fined not more than thirty thousand dollars (\$30,000), or both.

Approved March 7, 2018

CHAPTER 37
(H.B. No. 351)

AN ACT

RELATING TO PHARMACY; AMENDING SECTION 54-1705, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 54-1718, IDAHO CODE, TO REVISE PROVISIONS REGARDING LICENSURE AND DISCIPLINE; AMENDING SECTION 54-1720, IDAHO CODE, TO REVISE PROVISIONS REGARDING OTHER DUTIES, POWERS AND AUTHORITY OF THE BOARD OF PHARMACY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1721, IDAHO CODE, TO REVISE PROVISIONS REGARDING UNLAWFUL PRACTICE OF PHARMACY; AMENDING SECTION 54-1722, IDAHO CODE, TO REVISE PROVISIONS REGARDING EXAMINATIONS AND INTERNSHIP AND OTHER TRAINING PROGRAMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1723, IDAHO CODE, TO REVISE PROVISIONS REGARDING RECIPROCAL LICENSURE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1723A, IDAHO CODE, TO REVISE PROVISIONS REGARDING REGISTRATION; AMENDING SECTION 54-1724, IDAHO CODE, TO REVISE PROVISIONS REGARDING LICENSURE RENEWAL; AMENDING SECTION 54-1725, IDAHO CODE, TO REVISE PROVISIONS REGARDING CONTINUING PHARMACY EDUCATION; AMENDING SECTION 54-1728, IDAHO CODE, TO CLARIFY LANGUAGE REGARDING A CERTAIN FINE; AMENDING SECTION 54-1729, IDAHO CODE, TO REVISE PROVISIONS REGARDING REGISTRATION AND LICENSURE OF FACILITIES; AMENDING SECTION 54-1730, IDAHO CODE, TO REVISE PROVISIONS REGARDING DRUG OUTLET APPLICATION PROCEDURES; AMENDING SECTION 54-1733, IDAHO CODE, TO REVISE PROVISIONS REGARDING VALIDITY OF PRESCRIPTION DRUG ORDERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1733A, IDAHO CODE, TO PROVIDE THAT A DIGITAL IMAGE OF A PRESCRIPTION DRUG ORDER MAY BE USED FOR TRANSMITTAL TO A PHARMACY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1734, IDAHO CODE, TO REVISE PROVISIONS REGARDING POSSESSION OF LEGEND DRUGS; AMENDING SECTION 54-1738, IDAHO CODE, TO REVISE PROVISIONS REGARDING PROOF THAT A DRUG IS A PRESCRIPTION DRUG OR LEGEND DRUG AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1754, IDAHO CODE, TO REVISE PROVISIONS REGARDING RESTRICTIONS ON TRANSACTIONS; AMENDING SECTION 37-3201, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 54-1761, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 54-4702, 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 54-1705, Idaho Code, be, and the same is hereby amended to read as follows:

54-1705. DEFINITIONS. In this chapter:

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

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

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

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

~~(5) "Compounding" means the 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.~~

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

(a) Name and strength and description of the drug;

(b) Route of administration, dosage, dosage form, continuity of therapy and refill information;

(c) Special directions and precautions for preparation, administration, storage and use by the patient as deemed necessary by the pharmacist;

(d) Side effects or adverse effects and interactions and therapeutic contraindications that may be encountered, including their avoidance, which may interfere with the proper use of the drug or device as was intended by the prescriber, and the action required if they occur;

(e) Techniques for self-monitoring drug therapy; and

(f) Action to be taken in the event of a missed dose.

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

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

(a) Recognized in the official United States Pharmacopoeia or official National Formulary, other drug compendia or any supplement to them;

(b) Intended for use in the diagnosis of disease or other conditions, or the cure, mitigation, treatment or prevention of disease in man or other animal;

(c) Intended to affect the structure or any function of the body of man or other animal, and which does not achieve any of its principal intended purposes through chemical action within or on the body of man or other animal, and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

(97) "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.

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

(119) "Drug" means:

(a) Articles recognized as drugs in the official United States Pharmacopoeia, official National Formulary, official Homeopathic Pharmacopoeia, other drug compendia or any supplement to any of them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animal;

(c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and

(d) Articles intended for use as a component of any articles specified in paragraph (a), (b) or (c) of this subsection.

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

(130) "Drug outlets" means all a resident or nonresident pharmacies, ~~business entities and pharmacy, business entity or other facilities~~ 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.

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

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

(11) "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.

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

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

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

(194) "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.

(2015) "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.

(216) "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 pharmacy, institutional facility, manufacturer, wholesaler, ~~veterinary drug outlet,~~ nonresident central drug outlet or mail service pharmacy.

(2217) "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.

(2318) "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.

(2419) "Manufacturer" means a person who by compounding, cultivating, harvesting, mixing or other process, produces or prepares legend drugs, and includes persons who prepare such drugs in dosage forms by mixing, compounding, encapsulating, entableting, or other process, or who packages or repackages such drugs, but does not include pharmacists or practitioners in the practice of their profession.

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

(261) "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.

(22) "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 case services. Each function may be performed by the same or different persons and at the same or different locations.

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

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

(25) "Person in charge" or "PIC" means a pharmacist or, in the case of a prescriber drug outlet, a prescriber whose qualifications, responsibilities and reporting requirements are defined in rule.

(296) "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.

(3027) "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.

(28) "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.

~~(31) "Pharmacist-in-charge" (PIC) means a pharmacist whose qualifications, responsibilities and reporting requirements are defined in rule.~~

(329) "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.

(330) "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.

(31) "Preceptor" means a pharmacist or other health professional licensed and in good standing who supervises the internship training of a registered pharmacist intern.

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

~~(35) "Preceptor" means a pharmacist licensed and in good standing who supervises the internship or externship training of a registered student pharmacist. The preceptor shall be actively engaged in the practice of pharmacy on a full-time employment basis.~~

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

(34) "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 93, title 39, Idaho Code.

(375) "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 is required by any applicable federal or state law or regulation to be dispensed on prescription drug order only or is restricted to use by practitioners only.

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

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

- (a) Evaluation of the prescription drug order for:
 - (i) Known allergies;
 - (ii) Rational therapy contraindications;
 - (iii) Reasonable dose and route of administration; and
 - (iv) Reasonable directions for use.
- (b) Evaluation of the prescription drug order for duplication of therapy.

- (c) Evaluation of the prescription drug order for interactions:
 - (i) Drug-drug;
 - (ii) Drug-food; and
 - (iii) Drug-disease.
- (d) Evaluation of the prescription drug order for proper utilization:
 - (i) Over_ or under_utilization; and
 - (ii) Abuse/misuse.

(4038) "Record" means all papers, letters, memoranda, notes, prescriptions, drug orders, invoices, statements, patient medication charts or files, computerized records or other written indicia, documents or objects which that are used in any way in connection with the purchase, sale or handling of any drug or device.

(4139) "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.

(420) "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.

(41) "Veterinary drug outlet" means a prescriber drug outlet that dispenses drugs or devices intended for animal patients.

(432) "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 2. 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 pharmacy 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, unless exempted by board rule; and
- (b) Applicants for reinstatement of a license or registration that has been suspended or revoked; and
- ~~(c) Applicants for reinstatement of a license or registration that has lapsed for a period of time that is more than one (1) year.~~

Each applicant 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 3. 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) On or before the 60th day after the last day of each state fiscal year, the board shall submit to the governor a report summarizing its proceedings and activities during that fiscal year, together with a report of all moneys received and disbursed by the board. Such reports or comprehensive summaries or abstracts thereof, as determined by the board shall be made available to the public.~~

~~(5) (a) The board shall determine by rule the fees to be collected for:~~
~~(i) Examinations and reexaminations, which fee shall not exceed two hundred fifty dollars (\$250);~~
~~(ii) The issuance of licenses, which fee shall not exceed two hundred fifty dollars (\$250);~~
~~(iii) The issuance and renewal of certificates of registration, which fee shall not exceed one hundred dollars (\$100), except the fee for nonresident registrations shall not exceed five hundred dollars (\$500) for initial registration and two hundred fifty dollars (\$250) thereafter for annual renewals licenses and registrations.~~

(b) All fees or fines which 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.

~~(65) The board may receive and expend moneys~~ 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.

(76) The board shall assign to each drug outlet under its jurisdiction a uniform state number.

(87) 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.

(98) (a) Notwithstanding anything in this chapter to the contrary, whenever a duly authorized representative of the board finds or has probable cause to believe that any drug, or device is adulterated or misbranded within the meaning of the Idaho food, drug and cosmetic act, he shall affix to such drug or device a tag or other appropriate marking giving notice that such article is or is suspected of being adulterated or misbranded, has been detained or embargoed and warning all persons not to remove or dispose of such article by sale or otherwise until provision for removal or disposal is given by the board, its agent or the court. No person shall remove or dispose of such embargoed drug or device by sale or otherwise without the permission of the board or its agent or, after summary proceedings have been instituted, without permission from the court.

(b) When a drug or device detained or embargoed under paragraph (a) of this subsection ~~(9)~~ has been declared by such representative to be adulterated or misbranded, the board shall, as soon as practical thereafter, petition the judge of the district court in whose jurisdiction the article is detained or embargoed for an order for condemnation of such article. If the judge determines that the drug or device so detained or embargoed is not adulterated or misbranded, the board shall direct the immediate removal of the tag or other marking.

(c) If the court finds the detained or embargoed drug or device is adulterated or misbranded, such drug or device, after entry of the decree, shall be destroyed at the expense of the owner under the supervision of a board representative and all court costs and fees, storage and other proper expense shall be borne by the owner of such drug or device. When the adulteration or misbranding can be corrected by proper labeling or processing of the drug or device, the court, after entry of the decree and after such costs, fees and expenses have been paid and a good and sufficient bond has been posted, may direct that such drug or device be delivered to the owner thereof for such labeling or processing under the supervision of a board representative. Expense of such supervision shall be paid by the owner. Such bond shall be returned to the owner of the drug or device on representation to the court by the board that the drug or device is no longer in violation of the embargo and the expense of supervision has been paid.

(d) It is the duty of the attorney general to whom the board reports any violation of this subsection to cause appropriate proceedings to be instituted in the proper court without delay and to be prosecuted in the manner required by law. Nothing in this subsection ~~(9)~~ shall be construed to require the board to report violations whenever the board believes the public's interest will be adequately served in the circumstances by a suitable written notice or warning.

(109) 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.

(110) (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, 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.

(11) The board may sponsor, participate in or conduct education, research or public service programs or initiatives to carry out the purposes of this act.

SECTION 4. 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 herein:

(a) Physicians, dentists, veterinarians, osteopaths or other practitioners of the healing arts who are licensed under the laws of this state 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; and

(b) Nonresident pharmacists practicing who are actively licensed in their state of residence may practice pharmacy into Idaho who are if employed by or affiliated with and practicing for an Idaho-registered nonresident mail-service pharmacy drug outlet. Only the person in charge of a registered nonresident facility must be licensed or registered to practice into Idaho; and

(c) 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.

(2) Notwithstanding the provisions of subsection (1) of this section and any statute or rule to the contrary, persons who hold a valid and current license to practice practical or professional nursing in this state pursuant to sections 54-1407, 54-1408 and 54-1418, Idaho Code, and who are employed by one (1) of the public health districts established under section 39-408, Idaho Code, shall be permitted to engage in the labeling and delivery of refills of the following prepackaged items when such items have been prescribed to a patient by a licensed physician, licensed physician's assistant or licensed advanced practice nurse:

- (a) Prenatal vitamins;
- (b) Contraceptive drugs approved by the United States food and drug administration;
- (c) Antiviral drugs approved by the United States centers for disease control and prevention for treatment of sexually transmitted infection; and
- (d) Drugs approved by the United States centers for disease control and prevention for treatment of active and latent tuberculosis.

(3) 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 the title of druggist or apothecary, or any other title or description of like import.

(4) 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 5. 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) Be of good moral character and temperate habits-;
- (d) Have graduated and received the first professional undergraduate degree from a school or college of pharmacy which has been approved by the board of pharmacy-;
- (e) Have completed an internship or other program which has been approved by the board of pharmacy, or demonstrated to the board's satisfaction experience in the practice of pharmacy which that meets or exceeds the minimum internship requirements of the board-;
- (f) Have successfully passed an examination given by the board of pharmacy-; and
- (g) Paid the fees specified by the board of pharmacy for examination and issuance of license.

(2) Examinations.

~~(a) The examination for licensure required under section 54-1722(1)(f), Idaho Code, shall be given by the board at least two (2) times during each fiscal year of the state. The board shall determine the content and subject matter of each examination, the place, time and date of administration of the examination, and those persons who shall have successfully passed the examination.~~

~~(b) 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.

~~(a) 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.~~

~~(b) The board shall establish standards for internship or any other program necessary to qualify an applicant for the licensure examination and shall also determine the necessary qualifications of any preceptors used in any internship or other program.~~

(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 eEnglish 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 6. 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;;

(e) Have engaged in the practice of pharmacy for a period of at least one ~~(1) year or have met the internship requirements of this state within the one (1) year immediately previous to the date of such application.~~

~~(f) Have presented to the board proof of initial licensure by examination and proof that such license and any other license or licenses 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

~~(g) 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.

~~(3) Temporary reciprocity license.~~

~~(a) In conjunction with an application for a license as a pharmacist by reciprocity, the applicant may be granted a temporary license as a pharmacist upon compliance with the following terms and conditions:~~

- ~~(i) The applicant has filed a complete application for licensure by reciprocity and paid all fees for such application, which fees shall not be refundable upon grant of a temporary license;~~
 - ~~(ii) The applicant has passed the state jurisprudence examination with a score of not less than seventy-five (75);~~
 - ~~(iii) The applicant submits photocopies of all current licenses to practice pharmacy in any other states or jurisdictions;~~
 - ~~(iv) The applicant provides documentation of any and all actions taken against any of the applicant's licenses to practice pharmacy by any other state or jurisdiction, and any such action does not otherwise render the applicant ineligible for licensure by reciprocity in Idaho;~~
 - ~~(v) The applicant submits evidence that the applicant has lawfully practiced pharmacy in the United States or its territories for the preceding twelve (12) months prior to filing of the application;~~
 - ~~(vi) The applicant submits evidence that the applicant has completed all continuing education requirements of the applicant's active licenses for the three (3) calendar years preceding the application; and~~
 - ~~(vii) The applicant executes a sworn statement that all of the documents, evidence and statements of the applicant submitted to the board in conjunction with the application for licensure by reciprocity and the request for temporary licensure are true and correct, and that the applicant has fully disclosed all information required for licensure by reciprocity and for temporary licensure.~~
- ~~(b) Upon completion of the above requirements to the satisfaction of the executive director, the applicant may be granted a temporary license by reciprocity for a period of not more than sixteen (16) consecutive weeks as follows:~~
- ~~(i) The temporary license shall not be renewable nor may the applicant reapply for temporary licensure for a period of one (1) year after lapse of a temporary license;~~
 - ~~(ii) The temporary license shall lapse automatically upon the grant or denial of a license by reciprocity upon subsections (1) and (2) of this section;~~
 - ~~(iii) The temporary license shall not include acting as a pharmacist-in-charge or as a preceptor or supervising interns or externs;~~
 - ~~(iv) The temporary license shall be subject to discipline in the same manner as a full license and shall also be subject to immediate suspension by the executive director upon reasonable evidence that the applicant has not fulfilled the requirements for such temporary license or that the documents, evidence and statement of the applicant submitted to the board are not true and correct, or that the applicant's disclosures required by this section are not complete. Suspension of a temporary license by the executive director shall be immediate subject only to reinstatement upon appeal by the applicant to the board at its next scheduled meeting; and~~
 - ~~(v) In the event the temporary license lapses without the contemporaneous grant of full licensure by reciprocity, or the temporary license is suspended by the executive director, then all privileges allowed under the temporary license, including those relating to any controlled substance registration granted under the temporary license, shall also cease.~~

SECTION 7. That Section 54-1723A, Idaho Code, be, and the same is hereby amended to read as follows:

54-1723A. REGISTRATION TO ENGAGE IN THE PRACTICE OF PHARMACY INTO IDAHO. (1) To obtain a registration 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; and
- (d) Comply with all other requirements of the board.

(2) A successful applicant for registration 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 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 is located, ~~except as follows:~~

- ~~(a) A technician shall not exceed the practice limitations for technicians in Idaho;~~
- ~~(b) A pharmacist shall only substitute drug products in accordance with Idaho law;~~
- ~~(c) A pharmacist shall only select drug products in accordance with Idaho law; and~~
- ~~(d) A pharmacist shall not exceed the pharmacy staffing ratio, as defined in rule.~~

(4) Renewal shall be required annually and submitted to the board no later than the thirtieth last day of June the registrant's birth month. The board shall specify by rule the procedures to be followed and the fees to be paid for renewal of registration.

SECTION 8. That Section 54-1724, Idaho Code, be, and the same is hereby amended to read as follows:

54-1724. RENEWAL OF LICENSES. (1) Each pharmacist shall apply for license renewal annually no later than the thirtieth last day of June the licensee's birth month. The board shall renew the license of each pharmacist who is qualified to engage in the practice of pharmacy.

(2) The board shall specify by rule or regulation the procedures to be followed and the fees to be paid for renewal of licenses.

SECTION 9. That Section 54-1725, Idaho Code, be, and the same is hereby amended to read as follows:

54-1725. CONTINUING PHARMACY EDUCATION. (1) The legislature makes the following findings and declarations:

- (a) Because of the continuous introduction of new therapeutic and diagnostic agents and the changing concepts in the delivery of health-care health care services in the practice of pharmacy, it is essential that a pharmacist undertake a continuing education program in order to maintain his professional competency and improve his professional skills; and
- (b) To assure the continued competency of the pharmacist and to maintain uniform qualifications for registration and licensure in the profession for the protection of the health and welfare of its citizens, the legislature of this state deems it in the public interest to adopt a continuing professional education program.

(2) ~~Commencing July 1, 1980, n~~No annual renewal license shall be issued to a pharmacist until such pharmacist shall have submitted proof to the board that he has satisfactorily completed an accredited program of continuing professional education during the previous year to help assure his continued competence to engage in the practice of pharmacy. The board shall from time to time determine the amount of continuing education to be required.

(3) The board shall adopt rules and regulations necessary to carry out the stated objectives and purposes and to enforce the provisions of this section, which shall include the methods of determining accredited programs, any fees and such other rules and regulations consistent with this section as the board shall determine.

~~(4) The board may grant to a pharmacist who meets all of the necessary requirements for renewal of licensure, except the continuing education requirements, alternate methods of obtaining continuing education through home-study courses, correspondence courses, audiovisual aids, or other such programs, examination or the like, substantially equivalent in scope and content to the continuing professional education programs regularly scheduled; provided, however, only those pharmacists shall be eligible for the alternative programs who, upon written application to the board and for good cause shown, demonstrate that they are unable to attend a sufficient number of regularly scheduled continuing professional education programs for licensure. This section and all rules and regulations promulgated hereunder shall be uniformly applied by the board.~~

SECTION 10. That Section 54-1728, Idaho Code, be, and the same is hereby amended to read as follows:

54-1728. PENALTIES AND REINSTATEMENT. (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 under the provisions of this chapter, the board of pharmacy may impose one (1) or more of the following penalties:

- (a) Suspension of the offender's license or registration for a term to be determined by the board;
- (b) Revocation of the offender's license or registration;
- (c) Restriction of the offender's license or registration 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 renew offender's license or registration;
- (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 plus costs of prosecution and administrative costs of bringing the action including, but not limited to, attorney's fees and costs and costs of hearing transcripts.

(2) 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.

(3) 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.

(4) 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.

(5) 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 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 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.

(6) Any person whose license 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. 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.

(7) 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.

(8) All final decisions by the board shall be subject to judicial review pursuant to the procedures of the administrative procedure act.

SECTION 11. 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;
- (b) Submit a written application in the form prescribed by the board;
- (c) Pay the fee or fees specified by the board for the issuance of the registration or license; and
- (d) Have a PIC ~~or director~~ who is licensed or registered by the board, except manufacturers, wholesalers, ~~veterinary drug outlets and limited service~~ other drug outlets without a pharmacy in accordance with board rule.

(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 pharmacy;
- (b) Institutional facility;
- (c) Manufacturer;
- (d) Wholesaler;
- (e) Veterinary Prescriber drug outlet;
- (f) ~~Nonresident~~ 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 ~~which~~ that each outlet, ~~that has with~~ 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 desig-

nated 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 an any outlet registered or licensed under ~~this section~~ 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 which ~~shall~~ that requires the sale of nonprescription drugs by a pharmacist or under the supervision of a pharmacist or otherwise apply 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 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 under the provisions of 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 is located, ~~except as follows:~~

~~(a) A technician shall not exceed the practice limitations for technicians in Idaho;~~

~~(b) A pharmacist shall only substitute drug products in accordance with the board's laws and rules;~~

~~(c) A pharmacist shall only select drug products in accordance with the board's laws and rules; and~~

~~(d) A pharmacy shall not exceed the pharmacy staffing ratio as defined in rule.~~

(8) Renewal shall be required annually and submitted to the board no later than ~~June 30~~ 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.

SECTION 12. 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; ~~provided however, the annual fee for an original or renewal certificate shall not exceed one hundred dollars (\$100), except the fee for nonresident pharmacies or outlets shall not exceed five hundred dollars (\$500) for initial registration and two hundred fifty dollars (\$250) thereafter for annual renewals.~~

(2) Applications for certificates of registration shall include the following information about the proposed outlet:

(a) Ownership;

(b) Location;

(c) Identity of pharmacist licensed or registered to practice in the state, who shall be the pharmacist person in charge of the outlet, where one ~~(1)~~ is required by this chapter, and such further information as the board may deem necessary.

(3) Certificates of registration issued by the board pursuant to this chapter shall not be 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 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 13. That Section 54-1733, Idaho Code, be, and the same is hereby amended to read as follows:

54-1733. VALIDITY OF PRESCRIPTION DRUG ORDERS. (1) A prescription drug order for a legend drug is valid only if it is issued by a prescriber for a legitimate medical purpose arising from a prescriber-patient relationship which includes a documented patient evaluation adequate to establish diagnoses, if applicable, and identify underlying conditions and/or contraindications to the treatment.

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

- (a) Writing initial admission orders for a newly hospitalized patient;
- (b) Writing a prescription drug order for a patient of another prescriber for whom the prescriber is taking call;
- (c) Writing a prescription drug order for a patient examined by a physician assistant, advanced practice registered nurse or other licensed practitioner with whom the prescriber has a supervisory or collaborative relationship;
- (d) Writing a prescription drug order for a medication on a short-term basis for a new patient prior to the patient's first appointment;
- (e) Writing a prescription for an opioid antagonist pursuant to section 54-1733B, Idaho Code;
- (f) In emergency situations where the life or health of the patient is in imminent danger;
- (g) In emergencies that constitute an immediate threat to the public health including, but not limited to, empiric treatment or prophylaxis to prevent or control an infectious disease outbreak;
- (h) Epinephrine auto-injectors in the name of a school pursuant to section 33-520A, Idaho Code, or an authorized entity pursuant to section 54-1733C, Idaho Code; and
- (i) If a prescriber makes a diagnosis of a sexually transmitted disease in a patient, ~~the prescriber may~~ prescribe or dispense antibiotics to the infected patient's named sexual partner or partners for treatment of the sexually transmitted disease as recommended by the most current centers for disease control and prevention (CDC) guidelines; and
- (j) If a prescriber makes a diagnosis of an infectious disease in a patient, prescribe or dispense antimicrobials to an individual who has been exposed to the infectious person in accordance with clinical guidelines for chemoprophylaxis.

(3) Treatment, including issuing a prescription drug order, based solely on an online questionnaire or consultation outside of an ongoing clinical relationship does not constitute a legitimate medical purpose.

(4) A prescription drug order shall only be issued only by a prescriber including a prescriber who is licensed in a jurisdiction other than the state of Idaho and is permitted by such license to prescribe legend drugs in the course of his professional practice so as long as the individual is acting

within the jurisdiction, scope and authority of his license when issuing the prescription drug order.

(5) The following acts shall be unlawful:

(a) To knowingly issue an invalid prescription drug order for a legend drug;

(b) To knowingly dispense a legend drug pursuant to an invalid prescription drug order; or

(c) To prescribe drugs to individuals without a prescriber-patient relationship, unless excepted in this section.

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

SECTION 14. That Section 54-1733A, Idaho Code, be, and the same is hereby amended to read as follows:

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

(a) By delivery of the original signed written prescription drug order or a digital image of the order in accordance with rules adopted by the board;

(b) Electronically by the prescriber or prescriber's agent in compliance with the uniform electronic transactions act, chapter 50, title 28, Idaho Code;

(c) Electronically by a licensed practical or professional nurse in an institutional facility for a patient of that facility via a secure, interoperable information technology system that exchanges data accurately, effectively and in compliance with applicable laws;

(d) Verbally by the prescriber, prescriber's agent, or a licensed practical or professional nurse for a patient of an institutional facility or for a hospice patient; and

(e) Via facsimile by a prescriber, prescriber's agent, institutional facility or hospice agent, provided that if the order was initially received verbally, the transmitted document shall include the name of the prescriber, the name of the licensed practical or professional nurse who received and transcribed the order and the name of the person who faxed the order.

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

(a) The request is generated from the pharmacy;

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

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

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

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

SECTION 15. That Section 54-1734, Idaho Code, be, and the same is hereby amended to read as follows:

54-1734. POSSESSION OF LEGEND DRUGS. ~~(1)~~ The following persons or their agents or employees may possess legend drugs for use in the usual and lawful course of their business or practice or in the performance of their lawful official duties, without a valid prescription drug order:

- (a~~1~~) Pharmacists;
- (b~~2~~) Prescribers;
- (e~~3~~) Researchers who are prohibited from further distribution;
- (d~~4~~) Hospitals and other institutional facilities;
- (e~~5~~) Manufacturers and wholesalers;
- (f~~6~~) Common carriers solely in the usual course of business of transporting prescription drugs;
- (g~~7~~) Schools or other authorized entities possessing stock supplies of epinephrine auto-injectors pursuant to section 33-520A or 54-1733C, Idaho Code, upon presenting proof that the authorized entity has at least one (1) individual who has completed the training requirement of section 33-520A(5) (b) or 54-1733C(4), Idaho Code;
- (h~~8~~) Persons, agencies and organizations possessing opioid antagonists pursuant to section 54-1733B, Idaho Code;
- (i~~9~~) Midwives licensed pursuant to section 54-5507, Idaho Code, limited to formulary drugs consistent with rules promulgated by the Idaho board of midwifery;
- (j~~10~~) Home health nurses or agencies, or hospice agencies, possessing emergency kits pursuant to rules of the board; and
- (k~~11~~) Chiropractic physicians licensed pursuant to chapter 7, title 54, Idaho Code, and certified pursuant to sections 54-708 and 54-717, Idaho Code, limited to the prescription drug products listed in section 54-716, Idaho Code.

~~(2) Veterinary drug outlets or their agents or employees may possess legend drugs, excluding controlled substances, for use in the usual and lawful course of their business or practice or in the performance of their lawful official duties, without a valid prescription drug order.~~

SECTION 16. That Section 54-1738, Idaho Code, be, and the same is hereby amended to read as follows:

54-1738. PROOF THAT A DRUG IS A PRESCRIPTION DRUG OR LEGEND DRUG. The following shall constitute prima facie evidence in any criminal or civil proceeding in this state that a drug is a prescription drug or legend drug:

(1) In the case of a drug for which a new drug application was submitted to the United States food and drug administration, the affidavit of an officer having legal custody of the official records of the United States food and drug administration stating that such records show that the new drug application was approved, setting forth the date of approval, and further stating that the records show that proposed labeling for the drug which includes the legend "Caution: ~~f~~Federal law prohibits dispensing without a prescription" was approved. The affidavit shall be accompanied by a certificate that such officer has the custody.

(2) In the case of a drug for which the United States food and drug administration does not require an approved new drug application as a condition for marketing the drug, the affidavit of an officer having legal custody of the official records of the United States food and drug administration stating that such records reflect that the drug meets the criteria of federal law to be regarded as a prescription drug and is required to bear the legend "Caution: ~~f~~Federal law prohibits dispensing without a prescription." The affidavit shall be accompanied by a certificate that such officer has the custody.

(3) In the case of a drug designated a prescription drug by action of the state board of pharmacy, independently of federal law, the affidavit of an officer having legal custody of the records of the state board of pharmacy stating that such records show that the drug has been denominated a prescription drug, to which shall be attached a copy of the official document evidencing such action. The affidavit shall be accompanied by a certificate that such officer has the custody.

(4) This section does not prevent proof that a drug is a prescription or legend drug by any method ~~authorized~~ authorized by any applicable state statute, rule of procedure or rule of evidence.

SECTION 17. That Section 54-1754, Idaho Code, be, and the same is hereby amended to read as follows:

54-1754. RESTRICTIONS ON TRANSACTIONS. (1) A wholesale distributor shall receive prescription drug returns or exchanges from a pharmacy or chain pharmacy warehouse pursuant to the terms and conditions of the agreement between the wholesale distributor and the pharmacy or chain pharmacy warehouse. Returns of expired, damaged, recalled or otherwise nonsaleable pharmaceutical product shall be distributed by the receiving wholesale distributor only to either the original manufacturer or third-party returns processor, including a reverse distributor. Wholesale distributors and pharmacies shall be held accountable for administering their returns process and ensuring that the aspects of this operation are secure and do not permit the entry of adulterated and counterfeit product.

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

(3) A manufacturer or wholesale distributor shall furnish prescription drugs only to a person licensed by the appropriate state licensing agency to manufacture, distribute, dispense, conduct research or independently administer such prescription drugs, 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.

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

(a) The identity and authorization of the recipient is properly established; and

(b) This method of receipt is employed only to meet the immediate needs of a particular patient of the authorized person.

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

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

Any account established for the purchase of prescription drugs must bear the name of the licensee.

SECTION 18. That Section 37-3201, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

(3) "Solid dosage form" means capsules or tablets intended for oral use;

(4) "Legend drug" means any drug defined by section 54-1705(375), Idaho Code.

SECTION 19. That Section 54-1761, Idaho Code, be, and the same is hereby amended to read as follows:

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

(1) "Legend drug" has the same meaning as provided in section 54-1705(375), Idaho Code.

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

(3) "Patient assistance program" means a program in which pharmaceutical manufacturers provide financial or medication assistance to low-income or medically indigent individuals.

(4) "Qualifying charitable clinic or center" means a community health center as defined in section 39-3203, Idaho Code, and means a free medical clinic as defined in section 39-7702, Idaho Code, acting in consultation with a pharmacist licensed in the state of Idaho; or a designated regional behavioral health center as identified in chapter 31, title 39, Idaho Code; or a state charitable institution as defined in chapter 1, title 66, Idaho Code, acting in consultation with a pharmacist, physician, physician assistant or advanced practice professional nurse with prescriptive authority licensed in the state of Idaho.

SECTION 20. 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 (375), Idaho Code.

SECTION 21. 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 7, 2018

CHAPTER 38
(H.B. No. 353)

AN ACT

RELATING TO VOLUNTEER HEALTH CARE PROVIDERS; AMENDING SECTION 39-7702, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 39-7703, IDAHO CODE, TO REVISE PROVISIONS REGARDING IMMUNITY FOR CERTAIN HEALTH CARE PROVIDERS; AND AMENDING SECTION 39-7704, IDAHO CODE, TO CLARIFY APPLICABILITY.

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

SECTION 1. That Section 39-7702, Idaho Code, be, and the same is hereby amended to read as follows:

39-7702. DEFINITIONS. As used in this chapter:

(1) "Community health screening event" means an event sponsored by a school, a church, a civic club or another community organization for the purpose of providing health screenings by health care providers who are not compensated for their volunteer service at the event.

(2) "Compensation" is means any remuneration, whether by way of salary, fee or otherwise, for health care services rendered. Compensation does not include actual and necessary expenses that are incurred by a volunteer health care provider in connection with the services provided or the duties performed by the health care provider on behalf of a free clinic, and that are reimbursed to the volunteer health care provider.

(23) "Free medical clinic" means a facility other than a hospital or health care provider's office which is an organized community-based program, registered with the department of health and welfare, at which primary medical care is provided without charge to individuals unable to pay for it, and at which the care provided does not include the use of general anesthesia or require an overnight stay in a health care facility.

(34) "Health care provider" means any physician, dentist, optometrist, physician assistant or nurse who is licensed, certified, registered or otherwise authorized to practice in Idaho.

(5) "Health screening" means an examination, an evaluation or another health care assessment of a person by a licensed health care provider practicing within the provider's scope of practice to determine the fitness of an individual to participate in an event or activity or to determine whether an individual needs additional health care evaluation or treatment.

(46) "Voluntary provision of health care services" means providing professional services by a health care provider without compensation.

SECTION 2. That Section 39-7703, Idaho Code, be, and the same is hereby amended to read as follows:

39-7703. IMMUNITY FROM LIABILITY FOR HEALTH CARE PROVIDERS PROVIDING CHARITABLE MEDICAL CARE. (1) Any health care provider who voluntarily provides needed medical or health care services to any person at a free medical clinic or who provides health screenings at a community health screening event without compensation or the expectation of compensation ~~due to the inability of such person to pay for the services~~ shall be immune from liability for any civil action arising out of the provision of such medical or health services. This section shall not extend immunity to the health care provider for any acts constituting intentional, willful or grossly negligent conduct or to acts by a health care provider ~~which~~ that are outside the scope of practice authorized by the provider's licensure, certification or registration.

(2) Immunity pursuant to subsection (1) of this section shall apply only if the health care provider and the patient execute a written waiver in advance of the rendering of such medical services specifying that such services are provided without the expectation of compensation and that the health care provider shall be immune as specified herein.

(3) Nothing in this section shall prohibit a free medical clinic from accepting voluntary contributions for health care services provided to a patient who has acknowledged his or her ability and willingness to pay a portion of the value of the health care services provided. Any voluntary contribution collected for providing care at a free medical clinic shall be used only to pay overhead expenses of operating the clinic. No portion of any moneys collected shall be used to provide compensation to any health care provider.

(4) If a health care provider is insured for liability for negligent acts or omissions arising from providing health care services at a free clinic, the immunity provided in subsection (1) of this section is waived, provided however, the amount recovered shall not exceed the limits of such applicable insurance coverage.

SECTION 3. That Section 39-7704, Idaho Code, be, and the same is hereby amended to read as follows:

39-7704. REGISTRATION OF FREE MEDICAL CLINICS -- REQUIREMENTS. (1) Before providing volunteer health care services in this state, a free medical clinic shall register with the department of health and welfare by submitting a registration fee of fifty dollars (\$50.00) and filing a registration form that shall contain:

- (a) The name of the free clinic and sponsoring organization, if any;
- (b) The name of the principal individual or individuals who are the officers or organizational officials responsible for the operation of the free clinic or sponsoring organization, if any;
- (c) The address, including street, city, zip code and county, of the free clinic;
- (d) Telephone number;
- (e) Such additional information as the department may require.

(2) Each free clinic shall maintain a list of health care providers associated with its provision of voluntary health care services. For each such health care provider, the free clinic shall maintain a copy of a current license, certificate or registration and shall further require each health care provider to attest in writing that such provider's license, certificate or registration is not suspended or revoked pursuant to disciplinary proceedings in any jurisdiction.

(3) The free clinic shall maintain such records for a period of at least five (5) years following the provision of health care services and shall furnish such records upon request to the department.

(4) Compliance with subsections (1) and (2) of this section shall be prima facie evidence that the free clinic has exercised due care in its selection of health care providers and shall be immune from suit for negligent acts or omissions as provided in subsection (1) of section 39-7703, Idaho Code.

(5) The department may revoke the registration of any free clinic who fails to comply with the requirements of subsections (1) through (4) of this section. Any such revocation shall be conducted in accordance with the administrative procedure act.

(6) The provisions of this section shall not apply to community health screening events.

Approved March 7, 2018

CHAPTER 39
(H.B. No. 366)

AN ACT

RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-205, IDAHO CODE, TO REVISE PROVISIONS REGARDING PUBLIC EMPLOYMENT.

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

SECTION 1. That Section 72-205, Idaho Code, be, and the same is hereby amended to read as follows:

72-205. PUBLIC EMPLOYMENT GENERALLY -- COVERAGE. The following shall constitute employees in public employment and their employers subject to the provisions of this law:

(1) Every person in the service of the state or of any political subdivision thereof, under any contract of hire, express or implied, and every official or officer thereof, whether elected or appointed, while performing his official duties, except officials of athletic contests involving secondary schools, as defined by section 33-119, Idaho Code.

(2) Every person in the service of a county, city, or any political subdivision thereof, or of any municipal corporation.

(3) Participants in the Idaho youth conservation project under the supervision of the Idaho state forester.

(4) Every person who is a volunteer emergency responder shall be deemed, for the purposes of this law, to be in the employment of the political subdivision or municipality where the department, agency or organization is organized.

(5) Every person who is a regularly enrolled volunteer member or trainee of the department of disaster and civil defense, or of a civil defense corps, shall be deemed, for the purposes of this law, to be in the employment of the state.

(6) Members of the Idaho national guard while on duty and employees of or persons providing voluntary service to an approved Idaho national guard morale, welfare, and recreational activity. No Idaho compensation benefits shall inure to any such member, employee or volunteer or their beneficiaries for any injury or death compensable under federal law.

(7) A community service worker, as that term is defined in section 72-102, Idaho Code, is considered to be an employee in public employment for purposes of receiving worker's compensation benefits, which shall be the community service worker's exclusive remedy for all injuries and occupational diseases as provided under chapters 1 through 8, title 72, Idaho Code.

(8) Every person who participates in a youth employment program funded in whole or in part by state or federal money and administered by a state or federal agency or a nonprofit corporation or entity.

(9) A work experience student, as that term is defined in section 72-102, Idaho Code, who does not receive wages while participating in the school's work experience program shall be covered by the school district's policy or by the Idaho higher education policy when the work experience student is not covered by the private or governmental entity that is the student's work experience employer.

Approved March 7, 2018

CHAPTER 40
(H.B. No. 370)

AN ACT

RELATING TO WATER DISTRICTS; AMENDING SECTION 42-605, IDAHO CODE, TO REVISE PROVISIONS RELATING TO WATER DISTRICT MEETINGS AND ELECTIONS, TO PROVIDE THAT ABSENTEE AND PROXY VOTING ARE PROHIBITED AND TO REMOVE SURPLUS VERBIAGE.

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

SECTION 1. That Section 42-605, Idaho Code, be, and the same is hereby amended to read as follows:

42-605. DISTRICT MEETINGS -- WATERMASTER AND ASSISTANTS -- ELECTION -- REMOVAL -- OATH AND BOND -- ADVISORY COMMITTEE. (1) There shall be held on the first Monday in March in each year, and, except as provided in subsection (2) of this section, ~~commencing at two o'clock P.M.,~~ a meeting of all persons owning or having the use of a water right, in the waters of the stream or water supply comprising such district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources.

(2) Such meeting shall be held at some place within the water district, or at some nearby location convenient to a majority of those entitled to vote thereat, ~~which place shall be designated by the director of the department of water resources.~~ The director of the department of water resources shall, at least twenty-one (21) days prior to the meeting date, send notification by regular mail to all persons, companies, or corporations or other entities known by the director to hold rights to the use of the waters of such district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources, of the time, date, location and purpose of the annual meeting. At any annual meeting the water users may vote to waive the requirement for notice by mail and provide for notice to be given for future meetings by publication of the time, date, location and purpose of the meeting in a newspaper or newspapers in general circulation in the district. Published notice shall be made once per week for two (2) consecutive weeks with the second notice appearing at least fourteen (14) and not more than thirty (30) days prior to the meeting. In water districts whose area includes land in more than four (4) counties the annual meeting shall commence at ten o'clock A.M. instead of two o'clock P.M.; provided, that the water users of any water district may, by resolution adopted at an annual meeting or at a special meeting properly called for that purpose, At any annual meeting, the water users may vote to change the time of day when the meeting shall commence or change the date for annual meetings in subsequent years to any day except Saturday and Sunday between the second Monday of January and the third Monday in March or

~~change both the time and the date fourth Tuesday of May, in which case the director of the department of water resources shall send notification at least twenty-one (21) days prior to said meeting date. At an annual meeting the water users may adopt resolutions to assure or improve the distribution of the waters of the district within state law, and may provide that such resolutions shall continue from year to year.~~

(3) At the meeting of the water users of a district there shall be elected a watermaster for such water district, who may be authorized to employ such other regular assistants as the water users shall deem necessary, and who, upon appointment by the director of ~~the department of water resources~~, shall be responsible for distribution of water within said water district. Notwithstanding any personnel classification assigned to the watermaster and assistants pursuant to the provisions of chapter 53, title 67, Idaho Code, the water users shall, prior to the election of such watermaster and approval of the employment of assistants, fix the compensation to be paid them during the time actually engaged in the performance of their duties.

(4) Voting shall be by majority vote of the water users present at the meeting unless one (1) or more water users requests voting using the procedure which follows in this subsection. In such case the meeting chairman shall appoint a credentials committee to determine the number of votes each water user present is authorized to cast. If requested, each person present, owning or having the use for the ensuing season of any water right in the stream or water supply comprising such water district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources, shall be entitled to a number of votes equal to the average annual dollar amount and any fraction thereof assessed for that person's qualifying water right for the previous five (5) years, or such lesser number of years as the right has been assessed. If a right has not previously been assessed, a person present, owning or having the use of the right for the ensuing season shall be entitled to a number of votes equal to the dollar amount and any fraction thereof which the right would have been assessed had it existed and been reasonably used when water was available under the priority of the right during the previous season. Absentee voting and voting by proxy are prohibited.

(5) At such meeting the water users shall choose a meeting chairman and meeting secretary and ~~shall determine the manner and method of electing the watermaster. The water users shall, at the annual meeting, provide for the water district treasurer functions of any water district that collects or pays district expenses in accordance with section 42-618 or 42-619, Idaho Code, shall also elect a water district treasurer.~~ Within five (5) business days after such meeting the meeting chairman and meeting secretary shall forward a certified copy of the minutes of such meeting to the department of water resources. The meeting chairman, or the meeting secretary, if the meeting chairman is not present, from the immediately preceding annual meeting shall call the meeting to order and preside over the election of officers for the meeting.

(6) At such meeting the water users may choose an advisory committee to be composed of members selected as may be determined at the meeting, which committee shall serve as advisors to the director and the watermaster in matters pertaining to the distribution of water within the district. The advisory committee may be authorized to carry out policies as set forth in resolutions duly adopted by the water users at the annual meeting or at a special meeting. The advisory committee may also serve as the local committee to facilitate the rental of stored water if appointed by the water resource board for such purpose under the provisions of section 42-1765, Idaho Code.

(7) A corporation or a water delivery organization, including, but not limited to a corporation, a water company, an irrigation district, an irrigation company or a canal company, shall be considered a person for the pur-

pose of this section and shall designate someone to cast its vote ~~by someone to be designated by the corporation.~~

(8) Should said meeting not be held, or should said watermaster not be elected or the watermaster's compensation not be fixed as above provided, then the director of ~~the department of water resources~~ is authorized to appoint a watermaster and fix the watermaster's compensation.

(9) The director of ~~the department of water resources~~ may remove any watermaster whenever such watermaster fails to perform the watermaster's duty, upon complaint ~~in that respect being~~ made to the director in writing, by one (1) person owning or having the right to the use of a water right in such district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources provided, that upon investigation the director, after a hearing with the other water users of said district, which shall be held in the district or at some location convenient to the water users of the district, finds such charge to be true, and the director may appoint a successor for the unexpired term.

(10) Before entering upon the duties of the watermaster's office, said watermaster shall take and subscribe to an oath before some officer authorized by the laws of the state to administer oaths, to faithfully perform the duties of the watermaster's office, as provided in section 42-607, Idaho Code, and shall file that oath with the department of water resources. Upon appointment by the director of ~~the department of water resources~~, the actions taken by a watermaster in fulfillment of the duties of his office are covered by the state group surety bond as provided by sections 59-801 through 59-804, Idaho Code. A duly appointed watermaster that is reelected in consecutive years shall not be required to take and file additional oaths with the department of water resources for each consecutive year the watermaster is reelected. If a duly elected or appointed watermaster resigns, dies or is physically unable to perform his duties during the remainder of the elected or appointed watermaster term of service, then the director of ~~the department of water resources~~ is authorized to appoint a successor for the unexpired term as provided in paragraphs (a) and (b) of this subsection.

(a) If a water district advisory committee has been chosen as provided in subsection (6) of this section, the water district advisory committee shall meet to either nominate a successor watermaster or request a special meeting as provided in subsection (11) of this section to elect a new watermaster. Upon receipt of a nomination from a majority of the members of the water district advisory committee, the director of ~~the department of water resources~~ is authorized to appoint the nominated successor watermaster for the unexpired term.

(b) If a water district advisory committee has not been chosen, the director of the department of water resources is authorized to appoint a temporary successor watermaster. The temporary appointment extends through the unexpired term unless a special meeting is requested as provided in subsection (11) of this section and water users elect a new watermaster.

(11) The director shall call a special meeting of the water users of a district upon receipt of a written request for such meeting from a majority of the members of the advisory committee for a district, a written request from water users representing thirty percent (30%) or more of the votes cast at the last regular annual meeting, a written request from the watermaster or on the director's own motion if the director determines a meeting is necessary to address matters that cannot be delayed until the next regular annual meeting. Notice of the time, place and purpose of the special meeting shall be given by the director in the manner provided in subsection (2) of this section, provided however, that a special meeting notice shall be sent at least fourteen (14) days prior to the meeting date.

(12) The water users may, by resolution, authorize the watermaster to acquire, hold and dispose of such real and personal property, equipment and facilities in the name of the water district as necessary for the proper distribution of water, administration of the water district and enhancement of water supplies, and shall provide that all such real and personal property shall remain in the custody of the watermaster and the watermaster's successor.

(13) The water users may, by resolution, authorize the watermaster to develop, coordinate or provide, through contract or by other means, for weather modification projects involving cloud seeding that are designed to increase the water supplies of the water district by enhancing natural precipitation and which conform to state water planning objectives.

Approved March 7, 2018

CHAPTER 41
(H.B. No. 371)

AN ACT

RELATING TO CRITICAL GROUND WATER AREAS; AMENDING SECTION 42-233a, IDAHO CODE, TO REVISE PROVISIONS REGARDING CERTAIN ADMINISTRATION ON A TIME PRIORITY BASIS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 42-233a, Idaho Code, be, and the same is hereby amended to read as follows:

42-233a. "CRITICAL GROUND WATER AREA" DEFINED -- PUBLIC HEARINGS -- PUBLICATION OF NOTICE -- GRANTING OR DENIAL OF APPLICATION -- APPEAL. "Critical ground water area" is defined as any ground water basin, or designated part thereof, not having sufficient ground water to provide a reasonably safe supply for irrigation of cultivated lands, or other uses in the basin at the then-current rates of withdrawal, or rates of withdrawal projected by consideration of valid and outstanding applications and permits, as may be determined and designated, from time to time, by the director of the department of water resources.

Upon the designation of a "critical ground water area," it shall be the duty of the director of the department of water resources to conduct a public hearing in the area concerned to apprise the public of such designation and the reasons therefor. Notice of the hearing shall be published in two (2) consecutive weekly issues of a newspaper of general circulation in the area immediately prior to the date set for hearing.

In the event an area has been designated as a "critical ground water area" 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.

When a "critical ground water area" is designated by the director of the department of water resources, or at any time thereafter during the existence of the designation, the director may approve a ground water management plan for the area. The ground water management plan shall provide for managing the effects of ground water withdrawals on the aquifer from which withdrawals are made and on any other hydraulically connected sources of water.

In the event an application for permit is made with respect to an area that has not been designated as a critical ground water area, the director of the department of water resources shall forthwith issue a permit in accordance with the provisions of section 42-203A and section 42-204, Idaho

Code, provided said application otherwise meets the requirements of such sections; and further provided that if the applicant proposes to appropriate water from a ground water basin or basins in an amount which exceeds ten thousand (10,000) acre-feet per year either from a single or a combination of diversion points, and the director determines that the withdrawal of such amount will substantially and adversely affect existing pumping levels of appropriators pumping from such basin or basins, or will substantially and adversely affect the amount of water available for withdrawal from such basin or basins under existing water rights, the director may require that the applicant undertake such recharge of the ground water basin or basins as will offset that withdrawal adversely affecting existing pumping levels or water rights.

In the event an application for permit is made in an area which has been designated as a critical ground water area, if the director of the department of water resources from the investigation made by him on said application as herein provided, or from the investigation made by him in determining the area to be critical, or from other information that has come officially to his attention, has reason to believe that there is insufficient water available subject to appropriation at the location of the proposed well described in the application, the director of the department of water resources may forthwith deny said application; provided, however, that if ground water at such location is available in a lesser amount than that applied for, the director of the department of water resources may issue a permit for the use of such water to the extent that such water is available for such appropriation.

The director may require all water right holders within a critical ground water area to report withdrawals of ground water and other necessary information for the purpose of assisting him in determining available ground water supplies and their usage.

The director, upon determination that the ground water supply is insufficient to meet the demands of water rights within all or portions of a critical ground water area, shall order those water right holders on a time priority basis, within the area determined by the director, to cease or reduce withdrawal of water until such time as the director determines there is sufficient ground water. ~~Such order shall be given only before September 1 and shall be effective for the growing season during the year following the date the order is given~~ Water right holders participating in an approved ground water management plan shall not be subject to administration on a time priority basis as long as they are in compliance with the ground water management plan.

Any applicant dissatisfied with the decision of the director of the department of water resources may appeal to the district court in the manner provided for in section 42-237e, Idaho Code.

Approved March 7, 2018

CHAPTER 42
(H.B. No. 372)

AN ACT

RELATING TO WATER RIGHTS; AMENDING SECTION 42-221, IDAHO CODE, TO PROVIDE A FEE FOR APPLICATIONS TO CHANGE ONLY THE LEGAL DESCRIPTION FOR THE PLACE OF USE OR THE POINT OF DIVERSION UNDER SPECIFIED CONDITIONS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 42-221, Idaho Code, be, and the same is hereby amended to read as follows:

42-221. FEES OF DEPARTMENT. The department of water resources shall collect the following fees, which shall constitute a fund to pay for legal advertising, the publication of public notices and for investigations, research, and providing public data as required of the department in the performance of its statutory duties:

A. For filing an application for a permit to appropriate the public waters of this state:

1. For a quantity of 0.2 c.f.s. or less or for a storage volume of 20 acre feet or less \$100
2. For a quantity greater than 0.2 c.f.s. but not exceeding 1.0 c.f.s. or for a storage volume greater than 20 acre feet but not exceeding 100 acre feet \$250
3. For a quantity greater than 1.0 c.f.s. but not exceeding 20 c.f.s., or for a storage volume greater than 100 acre feet but not exceeding 2,000 acre feet \$250 plus \$40.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 1.0 c.f.s. or 100 acre feet.
4. For a quantity greater than 20.0 c.f.s. but not exceeding 100 c.f.s. or for a storage volume greater than 2,000 acre feet but not exceeding 10,000 acre feet \$1,010 plus \$20.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 20.0 c.f.s. or 2,000 acre feet.
5. For a quantity greater than 100.0 c.f.s. but not exceeding 500.0 c.f.s., or for a storage volume greater than 10,000 acre feet but not exceeding 50,000 acre feet \$2,610 plus \$10.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 100 c.f.s. or 10,000 acre feet.
6. For a quantity greater than 500 c.f.s., or for a storage volume greater than 50,000 acre feet \$6,610 plus \$2.00 for each additional 1.0 c.f.s. or part thereof or 100 acre feet or part thereof over the first 500.0 c.f.s. or 50,000 acre feet.

B. For filing an application for an extension of time within which to resume the use of water under a vested water right \$100

C. For filing application for amendment of permit \$100

D. 1. For filing claim to use right under section 42-243, Idaho Code \$100

2. For filing a late claim to use a water right under section 42-243, Idaho Code, where the date filed with the department of water resources or, the postmark if mailed to the department of water resources, is:

- i. After June 30, 1998 \$250
- ii. After June 30, 2005 \$500
- iii. For every ten (10) years after June 30, 2005, an additional \$500

E. For filing an assignment of permit \$25.00

F. For readvertising application for permit, change, exchange, or extension to resume use \$50.00

G. For certification, each document \$1.00

H. For making ~~photo-copies~~ photocopies of office records, maps and documents for public use . A reasonable charge as determined by the department.

I. For filing request for extension of time within which to submit proof of beneficial use on a water right permit \$50.00

J. For tasks requiring in excess of one (1) hour research or for computerized data provided for public use
..... A reasonable charge as determined by the department.

K. For filing proof of beneficial use of water and requests for water right license examinations, a fee based upon the rate of diversion claimed in the proof of beneficial use:

1. For a quantity of 0.2 c.f.s. or less, or for a storage volume of 20 acre feet or less \$50.00

except no fee shall be charged for domestic use for which a permit is not required.

2. For a quantity greater than 0.2 c.f.s. but not exceeding 1.0 c.f.s., or for a storage volume greater than 20 acre feet, but not exceeding 100 acre feet \$100

3. For a quantity greater than 1.0 c.f.s., or for a storage volume greater than 100 acre feet \$100 plus \$25.00 for each additional c.f.s. or part thereof, or 100 acre feet or part thereof, over the first 1.0 c.f.s. or 100 acre feet with a maximum fee not to exceed \$600.

L. For filing a protest or request to intervene in a protested matter \$25.00

M. For filing an application to alter a stream channel pursuant to chapter 38, title 42, Idaho Code:

1. Application for recreational dredge permits by residents of the state \$10.00

2. Application for recreational dredge permits by nonresidents of the state \$30.00

3. Other applications \$20.00

N. For receipt of all notices of application within a designated area, a reasonable annual charge as determined by the department.

O. For filing an application to change the point of diversion, place, period or nature of use of water under a vested water right:

1. For a quantity of 0.2 c.f.s. or less, or for a storage volume of 20 acre feet or less \$200

2. For a quantity greater than 0.2 c.f.s. but not exceeding 1.0 c.f.s., or for a storage volume greater than 20 acre feet but not exceeding 100 acre feet \$500

3. For a quantity greater than 1.0 c.f.s. but not exceeding 20 c.f.s., or for a storage volume greater than 100 acre feet but not exceeding 2,000 acre feet \$500 plus \$80.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 1.0 c.f.s. or 100 acre feet.

4. For a quantity greater than 20.0 c.f.s. but not exceeding 100 c.f.s., or for a storage volume greater than 2,000 acre feet but not exceeding 10,000 acre feet \$2,020 plus \$40.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 20.0 c.f.s. or 2,000 acre feet.

5. For a quantity greater than 100 c.f.s. but not exceeding 500 c.f.s., or for a storage volume greater than 10,000 acre feet but not exceeding 50,000 acre feet \$5,220 plus \$20.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 100 c.f.s. or 10,000 acre feet.

6. For a quantity greater than 500 c.f.s., or for a storage volume greater than 50,000 acre feet \$13,220 plus \$4.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 500 c.f.s. or 50,000 acre feet.

7. For any application to change the nature of use of water under one (1) or more vested water right(s), an additional fee of \$250 shall apply.

8. For an application to change only the legal description for the place of use or the point of diversion when there will be no physical change in the location of the place of use or the point of diversion and no unauthorized physical change in the location of the place of use or the point of diversion has occurred inconsistent with the decree, license or transfer defining the water right, the total filing fee shall be \$50.00 per water right.

P. For filing a notice of land application of effluent as required by section 42-201(8), Idaho Code \$150

All fees received by the department of water resources under the provisions of this chapter shall be transmitted to the state treasurer for deposit in the water administration account.

Approved March 7, 2018

CHAPTER 43
(H.B. No. 387)

AN ACT

RELATING TO LICENSE PLATES; AMENDING SECTION 49-403A, IDAHO CODE, TO PROVIDE FEE EXEMPTIONS FOR CERTAIN PURPLE HEART RECIPIENTS 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 only display the plates only after receipt of new registration from the department. A purple heart recipient shall not register more than two (2) 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.

Approved March 7, 2018

CHAPTER 44
(H.B. No. 475)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR FISCAL YEAR 2018; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR FISCAL YEAR 2018; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR FISCAL YEAR 2018; 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 292, Laws of 2017, and any other appropriation provided for by law, there is hereby appropriated to the Department of Health and Welfare the following amounts to be expended for the designated programs and expense classes from the listed funds for the period July 1, 2017, through June 30, 2018:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CHILDREN'S MENTAL HEALTH:				
FROM:				
Cooperative Welfare (General)				
Fund		\$322,300		\$322,300
Cooperative Welfare (Federal)				
Fund		<u>322,300</u>		<u>322,300</u>
TOTAL		\$644,600		\$644,600
II. PSYCHIATRIC HOSPITALIZATION:				
A. COMMUNITY HOSPITALIZATION:				
FROM:				
Cooperative Welfare (General)				
Fund			\$1,500,000	\$1,500,000
B. STATE HOSPITAL NORTH:				
FROM:				
Cooperative Welfare (General)				
Fund	\$16,600	\$100,000		\$116,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
C. STATE HOSPITAL SOUTH:				
FROM:				
Cooperative Welfare (General)				
Fund	\$1,605,900	\$283,400		\$1,889,300
DIVISION TOTAL	\$1,622,500	\$383,400	\$1,500,000	\$3,505,900
GRAND TOTAL	\$1,622,500	\$1,028,000	\$1,500,000	\$4,150,500

SECTION 2. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Health and Welfare in Section 1, Chapter 292, Laws of 2017, is hereby reduced by the following amounts according to the designated programs and expense classes from the listed funds for the period July 1, 2017, through June 30, 2018:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADULT MENTAL HEALTH:				
FROM:				
Cooperative Welfare (General)				
Fund			\$600,000	\$600,000
II. STATE HOSPITAL SOUTH:				
FROM:				
Cooperative Welfare (Dedicated)				
Fund	\$382,500	\$67,500		\$450,000
Cooperative Welfare (Federal)				
Fund	<u>1,223,400</u>	<u>215,900</u>		<u>1,439,300</u>
TOTAL	\$1,605,900	\$283,400		\$1,889,300
GRAND TOTAL	\$1,605,900	\$283,400	\$600,000	\$2,489,300

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 7, 2018

CHAPTER 45
(H.B. No. 493)

AN ACT

RELATING TO THE STATE CONTROLLER; AMENDING CHAPTER 10, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1021A, IDAHO CODE, TO AUTHORIZE THE STATE CONTROLLER TO ENGAGE IN A PROJECT TO MODERNIZE AND REPLACE THE STATE'S BUSINESS INFORMATION INFRASTRUCTURE AND TO PROVIDE FOR FUNDING; AMENDING CHAPTER 10, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1021B, IDAHO CODE, TO CREATE THE LEADERSHIP COUNCIL FOR THE BUSINESS INFORMATION INFRASTRUCTURE PROGRAM AND TO AUTHORIZE THE CREATION OF WORKING COMMITTEES OR ADVISORY BOARDS; AMENDING CHAPTER 10, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1021C, IDAHO CODE, TO ESTABLISH THE BUSINESS INFORMATION INFRASTRUCTURE FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. 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 67-1021A, Idaho Code, and to read as follows:

67-1021A. BUSINESS INFORMATION INFRASTRUCTURE PROJECT. (1) Notwithstanding any laws to the contrary, the state controller shall engage in a project to modernize and replace the state's aging business information infrastructure, including its financial, payroll, human capital management, budget and procurement systems. The purpose of the project shall be to modernize the state's business information infrastructure and to consolidate duplicative business systems into a centralized enterprise resource planning system in order to achieve standardized business practices and greater transparency in the state's data.

(2) The cost of modernizing the state's business information infrastructure shall be equitably distributed among and between all state and public entities that use the services and functions outlined in subsection (1) of this section. On or before June 30 of each year from the effective date of this act until and including June 30, 2022, all moneys deposited to the indirect cost recovery fund resulting from the assessment of the amounts allocated in the annual statewide indirect cost allocation plan pursuant to section 67-3531, Idaho Code, shall be transferred to the business information infrastructure fund established in section 67-1021C, Idaho Code. Transfers under this section shall occur as requested by the state controller and no later than June 30 of each year.

SECTION 2. 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 67-1021B, Idaho Code, and to read as follows:

67-1021B. BUSINESS INFORMATION INFRASTRUCTURE GOVERNANCE. (1) A leadership council for the business information infrastructure program consisting of the governor, the state controller, the speaker of the house of representatives or his designee and the president pro tempore of the senate or his designee is hereby created. It shall be the duty of the leadership council to garner statewide cooperation in standardizing business practices and gaining efficiencies wherever possible in order to eliminate duplicative business systems. The leadership council shall serve as the final authority in resolving any issues that may significantly alter the intended outcomes or completion timeline of the business information infrastructure

project. The state controller alone shall be responsible for presenting any such issues to the leadership council.

(2) The state controller shall have the authority to create working committees and advisory boards as needed to achieve the goals of the business information infrastructure project.

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 67-1021C, Idaho Code, and 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 funds 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 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 7, 2018

CHAPTER 46
(H.B. No. 463)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3004, IDAHO CODE, TO PROVIDE FOR APPLICABILITY OF THE INTERNAL REVENUE CODE TO DIFFERENT TAX YEARS; AMENDING SECTION 63-3021, IDAHO CODE, TO REVISE THE CALCULATION OF A NET OPERATING LOSS; AMENDING SECTION 63-3022, IDAHO CODE, TO REVISE THE CALCULATION OF IDAHO TAXABLE INCOME FOR CORPORATIONS AND TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 63-3024, IDAHO CODE, TO REDUCE THE INDIVIDUAL INCOME TAX RATE; AMENDING SECTION 63-3025, IDAHO CODE, TO REDUCE THE CORPORATE INCOME TAX RATE; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3029L, IDAHO CODE, TO PROVIDE FOR A CHILD TAX CREDIT; AMENDING SECTION 33-5401, IDAHO CODE, TO REVISE A DEFINITION AND TO PROVIDE A CORRECT TAX CODE CITATION; 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. (a) The term "Internal Revenue Code" means, for taxable years beginning on any day of 2017, the Internal Revenue Code of 1986 of the United States, as amended, and in effect on the first twenty-first day of January December 2017, except that Internal Revenue Code sections 965 and 213 are applied as in effect on December 31, 2017.

~~(b) Provisions of the Internal Revenue Code amended, deleted, or added prior to the effective date of the latest amendment to this section shall be applicable for Idaho income tax purposes on the effective date provided for such amendments, deletions, or additions, including retroactive provisions. The term "Internal Revenue Code" means, for taxable years beginning on or after the first day of January 2018, the Internal Revenue Code of 1986, as amended, and in effect on the first day of January 2018.~~

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

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

SECTION 2. That Section 63-3021, Idaho Code, be, and the same is hereby amended to read as follows:

63-3021. NET OPERATING LOSS. (a) The term "net operating loss" means the amount by which Idaho taxable income, after making the modifications specified in subsection (b) of this section, is less than zero (0).

(b) Add the following amounts:

(1) The amount of any net operating loss deduction included in Idaho taxable income.

(2) In the case of a taxpayer other than a corporation:

(i) Any amount deducted due to losses in excess of gains from sales or exchanges of capital assets; and

(ii) Any deduction for long-term capital gains provided by this chapter.

(3) Any deduction allowed under section 151 of the Internal Revenue Code (relating to personal exemption) or any deduction in lieu of any such deduction.

(4) Any deduction for the standard or itemized deductions provided for in section 63 of the Internal Revenue Code, or section 63-3022(j), Idaho Code, except for any deduction allowable under section 165(c)(3) of the Internal Revenue Code (relating to casualty losses) pertaining to property physically located inside Idaho at the time of the casualty.

(5) Any amount limited by section 461 of the Internal Revenue Code.

(c) Subject to the provisions of sections 381 and 382, Internal Revenue Code, Idaho net operating losses incurred by a corporation will survive a merger.

(1) Changes in the location of a loss corporation's business or its key employees shall not be treated as a failure to satisfy the continuity of business requirements.

(2) If the premerger corporation conducted operations in Idaho and at least one (1) other state, the section 382, Internal Revenue Code, loss limitation is limited further by the premerger loss corporation's Idaho apportionment factor for the last taxable year preceding the date of the merger.

SECTION 3. 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. ~~The election shall be made as under section 172(b)(3) of the Internal Revenue Code. An election under this subsection must be in the manner prescribed in the rules of the state tax commission and once made is irrevocable for the year in which it is made.~~

(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, 245A, 246A, 250 and 965 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 pur-

suant to chapter 54, title 33, Idaho Code, less any amount of such nonqualified withdrawal included in the individual's federal gross income pursuant to section 529 of the Internal Revenue Code.

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

SECTION 4. That Section 63-3024, Idaho Code, be, and the same is hereby amended to read as follows:

63-3024. INDIVIDUALS' TAX AND TAX ON ESTATES AND TRUSTS. For taxable year 2001, and each taxable year thereafter, a tax measured by Idaho taxable income as defined in this chapter is hereby imposed upon every individual, trust, or estate required by this chapter to file a return.

(a) The tax imposed upon individuals, trusts and estates shall be computed at the following rates:

When Idaho taxable income is:	The rate is:
Less than \$1,000	One and six-tenths <u>one hundred twenty-five thousandths</u> percent (1. <u>6125</u> %)
\$1,000 but less than \$2,000	\$1611.25, plus three and six-tenths <u>one hundred twenty-five thousandths</u> percent (3. <u>6125</u> %) of the amount over \$1,000
\$2,000 but less than \$3,000	\$5242.50, plus four <u>three</u> and one-tenth <u>six hundred twenty-five thousandths</u> percent (4. <u>13.625</u> %) of the amount over \$2,000
\$3,000 but less than \$4,000	\$9378.75, plus five <u>four</u> and one-tenth <u>six hundred twenty-five thousandths</u> percent (5. <u>14.625</u> %) of the amount over \$3,000
\$4,000 but less than \$5,000	\$144125, plus six <u>five</u> and one-tenth <u>six hundred twenty-five thousandths</u> percent (6. <u>15.625</u> %) of the amount over \$4,000
\$5,000 but less than \$7,500	\$205181.25, plus seven <u>six</u> and one-tenth <u>six hundred twenty-five thousandths</u> percent (7. <u>16.625</u> %) of the amount over \$5,000
\$7,500 and over	\$383346.88, plus seven <u>six</u> and four-tenths <u>nine hundred twenty-five thousandths</u> percent (7. <u>46.925</u> %) of the amount over \$7,500

For taxable year 2000 and each year thereafter, the state tax commission shall prescribe a factor which shall be used to compute the Idaho income tax brackets provided in subsection (a) of this section. The factor shall provide an adjustment to the Idaho tax brackets so that inflation will not result in a tax increase. The Idaho tax brackets shall be adjusted as follows:

multiply the bracket amounts by the percentage (the consumer price index for the calendar year immediately preceding the calendar year to which the adjusted brackets will apply divided by the consumer price index for calendar year 1998). For the purpose of this computation, the consumer price index for any calendar year is the average of the consumer price index as of the close of the twelve (12) month period for the immediately preceding calendar year, without regard to any subsequent adjustments, as adopted by the state tax commission. This adoption shall be exempt from the provisions of chapter 52, title 67, Idaho Code. The consumer price index shall mean the consumer price index for all U.S. urban consumers published by the United States department of labor. The state tax commission shall annually include the factor as provided in this subsection to multiply against Idaho taxable income in the brackets above to arrive at that year's Idaho taxable income for tax bracket purposes.

(b) In case a joint return is filed by husband and wife pursuant to the provisions of section 63-3031, Idaho Code, the tax imposed by this section shall be twice the tax which would be imposed on one-half (1/2) of the aggregate Idaho taxable income. For the purposes of this section, a return of a surviving spouse, as defined in section 2(a) of the Internal Revenue Code, and a head of household, as defined in section 2(b) of the Internal Revenue Code, shall be treated as a joint return and the tax imposed shall be twice the tax which would be imposed on one-half (1/2) of the Idaho taxable income.

(c) In the case of a trust that is an electing small business trust as defined in section 1361 of the Internal Revenue Code, the special rules for taxation of such trusts contained in section 641 of the Internal Revenue Code shall apply except that the maximum individual rate provided in this section shall apply in computing tax due under this chapter.

(d) The state tax commission shall compute and publish Idaho income tax liability for taxpayers at the midpoint of each bracket of Idaho taxable income in fifty dollar (\$50.00) steps to fifty thousand dollars (\$50,000), rounding such calculations to the nearest dollar. Taxpayers having income within such brackets shall file returns based upon and pay taxes according to the schedule thus established. The state tax commission shall promulgate rules defining the conditions upon which such returns shall be filed.

SECTION 5. That Section 63-3025, Idaho Code, be, and the same is hereby amended to read as follows:

63-3025. TAX ON CORPORATE INCOME. (1) For taxable years commencing on and after January 1, 2001, a tax is hereby imposed on the Idaho taxable income of a corporation, other than an S corporation, which transacts or is authorized to transact business in this state or which has income attributable to this state. The tax shall be equal to seven ~~six~~ and ~~four-tenths~~ nine hundred twenty-five thousandths percent (7.46.925%) of Idaho taxable income.

(2) In the case of an S corporation that is required to file a return under section 63-3030, Idaho Code, a tax is hereby imposed at the rate provided in subsection (1) of this section upon both:

(a) Net recognized built-in gain attributable to this state. The amount of net recognized built-in gain attributable to this state shall be computed in accordance with section 1374 of the Internal Revenue Code subject to the apportionment and allocation provisions of section 63-3027, Idaho Code.

(b) Excess net passive income attributable to this state. The amount of excess net passive income attributable to this state shall be computed in accordance with section 1375 of the Internal Revenue Code subject to the apportionment and allocation provisions of section 63-3027, Idaho Code.

(3) The tax imposed by subsection (1) or (2) of this section shall not be less than twenty dollars (\$20.00); provided further that the twenty dollar

(\$20.00) minimum payment shall not be collected from nonproductive mining corporations.

(4) The tax imposed by this section shall not apply to corporations taxed pursuant to the provisions of section 63-3025A, Idaho Code.

SECTION 6. 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 63-3029L, Idaho Code, and to read as follows:

63-3029L. CHILD TAX CREDIT. (1) For taxable years beginning on or after January 1, 2018, and before January 1, 2026, there shall be allowed to a taxpayer a nonrefundable credit against the tax imposed by this chapter in the amount of one hundred thirty dollars (\$130) with respect to each qualifying child of the taxpayer. For purposes of this section, the term "qualifying child" has the meaning as defined in section 24(c) of the Internal Revenue Code. In no event shall more than one (1) taxpayer be allowed this credit for the same qualifying child.

(2) In the case of divorced parents or parents who do not live together, if the qualifying child is in the custody of one (1) or both of the child's parents for more than one-half of a calendar year, such child is the qualifying child of the custodial parent for the taxable year beginning during such calendar year. However, the child may be the qualifying child of the noncustodial parent if either of the following requirements are met:

(a) A court of competent jurisdiction has unconditionally awarded, in writing, the noncustodial parent the tax credit authorized under this section and the noncustodial parent attaches a copy of the court order to the noncustodial parent's income tax return for the taxable year; or

(b) The custodial parent signs a written declaration that such custodial parent will not claim the credit of this section with respect to such child for any taxable year beginning in such calendar year and the noncustodial parent attaches such written declaration to the noncustodial parent's income tax return for the taxable year beginning during such calendar year.

SECTION 7. That Section 33-5401, Idaho Code, be, and the same is hereby amended to read as follows:

33-5401. DEFINITIONS. As used in this chapter, the following terms have the following meanings unless the context clearly denotes otherwise:

(1) "Account" means an individual trust account or savings account established as prescribed in this chapter.

(2) "Account owner" means the person or state or local government organization designated in the agreement governing the account as having the right to withdraw moneys from the account before the account is disbursed to or for the benefit of the designated beneficiary.

(3) "Board" means the state college savings program board created in section 33-5402, Idaho Code.

(4) "Designated beneficiary," except as provided in section 33-5404, Idaho Code, means, with respect to an account, the individual designated at the time the account is opened as the individual whose higher education expenses are expected to be paid from the account or, if this designated beneficiary is replaced in accordance with section 33-5404, Idaho Code, the replacement beneficiary.

(5) "Eligible educational institution" shall have the meaning provided in 26 U.S.C. section 529.

(6) "Financial institution" means any state bank, national bank, savings bank, savings and loan association, credit union, insurance company, brokerage firm, trust company, mutual fund, investment firm or other similar entity that is authorized to do business in this state.

(7) "Member of the family" shall have the meaning as provided in 26 U.S.C. section 529.

(8) "Nonqualified withdrawal" means an account withdrawal that is not one (1) of the following:

(a) A qualified withdrawal;

(b) A withdrawal made as the result of the death or disability of the designated beneficiary of an account;

(c) A withdrawal that is made on account of a scholarship as defined in 26 U.S.C. section 117 or an educational allowance as defined in 26 U.S.C. section 25A(g) (2);

(d) A rollover or change of the designated beneficiary.

(9) "Person" means an individual, a trust, an estate, a partnership, an association, a foundation, a guardianship, a corporation, or a custodian under the Idaho uniform transfers to minors act.

(10) "Program" means the one (1) or more college savings program programs established under this chapter.

(11) "Qualified higher education expenses" shall have the meaning provided in 26 U.S.C. section 529(e)(3).

(12) "Qualified withdrawal" means a withdrawal from an account to pay the qualified higher education expenses of the designated beneficiary of the account, but only if the withdrawal is made in accordance with this chapter.

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, and retroactively to January 1, 2018.

Approved March 12, 2018

CHAPTER 47
(H.B. No. 432)

AN ACT

RELATING TO THE WORKFORCE DEVELOPMENT COUNCIL; AMENDING TITLE 72, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 12, TITLE 72, IDAHO CODE, TO CREATE THE WORKFORCE DEVELOPMENT COUNCIL, TO PROVIDE COMPOSITION AND APPOINTMENT AND TO PROVIDE FOR AN EXECUTIVE DIRECTOR, TO PROVIDE FOR YOUTH EMPLOYMENT AND JOB TRAINING PROGRAMS AND TO PROVIDE FOR CREATION OF THE WORKFORCE DEVELOPMENT TRAINING FUND; AMENDING SECTION 72-1333, IDAHO CODE, TO REMOVE EMPLOYEES OF THE IDAHO CAREER INFORMATION SYSTEM AS EXEMPT EMPLOYEES AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 72-1336, IDAHO CODE, RELATING TO THE ADVISORY BODY AND SPECIAL COMMITTEES; REPEALING SECTION 72-1336A, IDAHO CODE, RELATING TO YOUTH EMPLOYMENT AND JOB TRAINING PROGRAMS; REPEALING SECTION 72-1345A, IDAHO CODE, RELATING TO THE IDAHO CAREER INFORMATION SYSTEM; REPEALING SECTION 72-1347B, IDAHO CODE, RELATING TO THE WORKFORCE DEVELOPMENT TRAINING FUND; AMENDING SECTION 72-1347A, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE, TO REMOVE A PROVISION REGARDING APPROVAL OF AN ADVISORY COUNCIL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 72-1348, IDAHO CODE, TO REMOVE A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Title 72, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 12, Title 72, Idaho Code, and to read as follows:

CHAPTER 12
WORKFORCE DEVELOPMENT COUNCIL

72-1201. CREATION OF WORKFORCE DEVELOPMENT COUNCIL -- COMPOSITION -- APPOINTMENT -- EXECUTIVE DIRECTOR. (1) There is hereby established in the executive office of the governor the workforce development council. Members of the council and an executive director shall be appointed by and serve at the pleasure of the governor. The governor shall prescribe the structure, duties and functions of the council, which shall include but not be limited to the following:

(a) To serve as the state's coordinating body on matters related to workforce development policy and programs;

(b) To develop and provide oversight of procedures, criteria and performance measures for the workforce development training fund established under section 72-1203, Idaho Code; and

(c) To serve as the state workforce investment board in accordance with section 101 of the federal workforce innovation and opportunity act, 29 U.S.C. 3101 et seq., as amended, and federal regulations promulgated thereunder.

(2) The council may appoint special committees in connection with this section.

(3) The council may apply for and accept grants and contributions of funds from any public or private source.

(4) The executive director is authorized to hire and supervise support staff consistent with the mission and priorities of the council. The executive director shall be a nonclassified employee exempt from the provisions of chapter 53, title 67, Idaho Code. Support staff shall be classified employees under the provisions of chapter 53, title 67, Idaho Code.

(5) Members of the council and any special committees who are not state employees shall be compensated for actual and necessary expenses as provided by section 59-509(b), Idaho Code.

72-1202. YOUTH EMPLOYMENT AND JOB TRAINING PROGRAMS. (1) Subject to the availability of funds from public and private sources, the council shall develop and implement youth employment and job training programs to increase employment opportunities for Idaho's youth.

(2) The council shall establish eligibility criteria for participants. At a minimum, participants shall be lawful residents of the United States and the state of Idaho, and eligibility criteria shall not render employment and job training programs ineligible for federal funding.

(3) To the extent practicable, the council shall enlist state and federal agencies, local governments, nonprofit organizations, private businesses and any combination of such entities to act as sponsors for programs administered pursuant to this section. Selection of sponsors shall be based on criteria that include the availability of other resources on a matching basis, including contributions from private sources, other federal, state and local agencies, and moneys available through the federal workforce innovation and opportunity act, 29 U.S.C. 3101 et seq., as amended.

(4) Participants in youth employment and job training programs under this section shall not be employees of the state of Idaho entitled to personnel benefits under the state personnel system, chapter 53, title 67, Idaho Code.

72-1203. WORKFORCE DEVELOPMENT TRAINING FUND. (1) There is established in the state treasury a special trust fund, separate and apart from all other public funds of this state, to be known as the workforce development training fund, hereinafter "training fund." Except as provided herein, all proceeds from the training tax defined in subsection (7) of this section shall be paid into the training fund. The state treasurer

shall be the custodian of the training fund and shall invest said moneys in accordance with law. Any interest earned on the moneys in the training fund shall be deposited in the training fund. Moneys in the training fund shall be disbursed in accordance with the directions of the council.

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

(a) To provide training and retraining for skills necessary for specific economic opportunities and industrial expansion initiatives;

(b) To provide innovative training solutions to meet industry-specific workforce needs or local workforce challenges;

(c) To provide public information and outreach on career education and workforce training opportunities, including existing education and training programs and services not funded by the training fund; and

(d) For all administrative expenses incurred by the council, including those expenses associated with the collection of the training tax and any other administrative expenses associated with the training fund.

(3) Expenditures from the training fund for purposes authorized in paragraphs (a), (b) and (c) of subsection (2) of this section shall be approved by the council based on procedures, criteria and performance measures established by the council.

(4) Expenditures from the training fund for purposes authorized in paragraph (d) of subsection (2) of this section shall be approved by the executive director. The executive director shall pay all approved expenditures as long as the training fund has a positive balance.

(5) The activities funded by the training fund will be coordinated with similar activities funded by the state division of career technical education.

(6) The council shall report annually to the governor and the joint finance-appropriations committee the commitments and expenditures made from the training fund in the preceding fiscal year and the results of the activities funded by the training fund.

(7) A training tax is hereby imposed on all covered employers required to pay contributions pursuant to section 72-1350, Idaho Code, with the exception of deficit-rated employers who have been assigned a taxable wage rate from rate class six pursuant to section 72-1350, Idaho Code. The training tax rate shall be equal to three percent (3%) of the taxable wage rate then in effect for each eligible standard-rated and deficit-rated employer. The training tax shall be due and payable at the same time and in the same manner as contributions.

(8) The provisions of chapter 13, title 72, Idaho Code, which apply to the payment and collection of contributions, also apply to the payment and collection of the training tax, including the same calculations, assessments, methods of payment, penalties, interest, costs, liens, injunctive relief, collection procedures and refund procedures. The director of the department of labor is granted all rights, authority and prerogatives necessary to administer the provisions of this subsection. Moneys collected from an employer delinquent in paying the training tax shall first be applied to any penalties and interest imposed pursuant to the provisions of chapter 13, title 72, Idaho Code, and then pro rata to the training fund established in subsection (1) of this section. Any penalties and interest collected pursuant to this subsection shall be paid into the state employment security administrative and reimbursement fund, section 72-1348, Idaho Code, and any penalties or interest refunded under this subsection shall be paid from that same fund. Training taxes paid pursuant to this section shall not be

credited to the employer's experience rating account and may not be deducted by any employer from the wages of individuals in its employ. All training taxes shall be deposited in the clearing account of the employment security fund, section 72-1346, Idaho Code, for clearance only and shall not become part of such fund. After clearance, the moneys shall be deposited in the training fund. The director of the department of labor may authorize refunds of training taxes erroneously collected and deposited in the training fund.

SECTION 2. That Section 72-1333, Idaho Code, be, and the same is hereby amended to read as follows:

72-1333. DEPARTMENT OF LABOR -- AUTHORITY AND DUTIES OF THE DIRECTOR. (1) The director shall administer the employment security law, chapter 13, title 72, Idaho Code, the minimum wage law, chapter 15, title 44, Idaho Code, the provisions of chapter 6, title 45, Idaho Code, relating to claims for wages, the provisions of section 44-1812, Idaho Code, relating to minimum medical and health standards for paid firefighters, the disability determinations service established pursuant to 42 U.S.C. 421, and shall perform such other duties relating to labor and workforce development as may be imposed upon him by law. The director shall be the successor in law to the office enumerated in section 1, article XIII, of the constitution of the state of Idaho. The director shall have the authority to employ individuals, make expenditures, require reports, make investigations, perform travel and take other actions deemed necessary. The director shall organize the department of labor, which is hereby created, and which 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. The director shall have an official seal, which shall be judicially noticed.

(2) The director shall have the authority pursuant to chapter 52, title 67, Idaho Code, to adopt, amend, or rescind rules as he deems deemed necessary for the proper performance of all duties imposed upon him by law.

(3) Subject to the provisions of chapter 53, title 67, Idaho Code, the director is authorized and directed to provide for a merit system for the department covering all persons, except the director, the division administrators, ~~employees of the Idaho career information system,~~ and two (2) exempt positions to serve at the pleasure of the director.

(4) The director shall make recommendations for amendments to the employment security law and other laws he the director is charged to implement as he deems deemed proper.

(5) The director shall have all the powers and duties as may have been or could have been exercised by his predecessors in law, except those powers and duties granted and reserved to the director of the department of commerce in titles 39, 49 and 67, Idaho Code, and he shall be the successor in law to all contractual obligations entered into by his predecessors in law, except for those contracts of the department of commerce, or contracts pertaining to any power or duty granted and reserved to the director of the department of commerce, in titles 39, 49 and 67, Idaho Code.

(6) The director shall provide administrative support for the commission on human rights pursuant to section 67-5905, Idaho Code.

SECTION 3. That Sections 72-1336, 72-1336A, 72-1345A and 72-1347B, Idaho Code, be, and the same are hereby repealed.

SECTION 4. That Section 72-1347A, Idaho Code, be, and the same is hereby amended to read as follows:

72-1347A. EMPLOYMENT SECURITY RESERVE FUND -- SPECIAL ADMINISTRATION FUND. (1) There is established in the state treasury a special trust fund, separate and apart from all other public funds of this state, to be known as

the employment security reserve fund, hereinafter "reserve fund." Except as provided herein, all proceeds from the reserve tax defined in subsection (2) of this section shall be paid into the reserve fund. The moneys in the reserve fund may be used by the director for loans to the employment security fund, section 72-1346, Idaho Code, as security for loans from the federal unemployment insurance trust fund, and for the repayment of any interest-bearing advances, including interest, made under title XII of the social security act, 42 U.S.C. 1321 through 1324, and shall be available to the director for expenditure in accordance with the provisions of this section. The state treasurer shall be the custodian of the reserve fund and shall invest said moneys in accordance with law. The state treasurer shall disburse the moneys from the reserve fund in accordance with the directions of the director.

(2) A reserve tax is imposed on all covered employers required to pay contributions pursuant to section 72-1350, Idaho Code, except deficit-rated employers who have been assigned a taxable wage rate from deficit rate class six pursuant to section 72-1350(8)(a), Idaho Code. The reserve tax shall be due and payable at the same time and in the same manner as contributions. If the reserve fund is less than one percent (1%) of state taxable wages in the penultimate year as of September 30 of the preceding calendar year, the reserve tax rate for all eligible, standard-rated and deficit-rated employers shall be equal to the taxable wage rate then in effect less the assigned contribution rate and training tax rate. The provisions of this chapter which apply to the payment and collection of contributions also apply to the payment and collection of the reserve tax, including the same calculations, assessments, method of payment, penalties, interest, costs, liens, injunctive relief, collection procedures and refund procedures. In the administration of the provisions of this section and the collection of the reserve tax, the director is granted all rights, authority, and prerogatives granted the director under the provisions of this chapter. Moneys collected from an employer delinquent in paying contributions and reserve taxes shall first be applied to pay any penalty and interest imposed pursuant to the provisions of this chapter and shall then be applied pro rata to pay delinquent contributions to the employment security fund, section 72-1346, Idaho Code, and delinquent reserve taxes to the reserve fund pursuant to this section. Any interest and penalties collected pursuant to this subsection shall be paid into the state employment security administrative and reimbursement fund, section 72-1348, Idaho Code, and any interest or penalties refunded under this subsection shall be paid out of that same fund. Reserve taxes paid pursuant to this subsection may not be deducted in whole or in part by any employer from the wages of individuals in its employ. All reserve taxes collected pursuant to this subsection shall be deposited in the clearing account of the employment security fund, section 72-1346, Idaho Code, for clearance only and shall not become part of such fund. After clearance, the moneys shall be deposited in the reserve fund established in subsection (1) of this section. No reserve tax shall be imposed for any calendar year if, as of September 30 of the preceding calendar year, the balance of the reserve fund equals or exceeds one percent (1%) of the state taxable wages for the penultimate calendar year, or exceeds forty-nine percent (49%) of the actual balance of the employment security fund, section 72-1346, Idaho Code. ~~Provided however, and notwithstanding any other provisions of this subsection, for calendar year 2006, the imposition of a reserve tax shall not be precluded even if the balance of the reserve fund exceeds forty-nine percent (49%) of the actual balance of the employment security fund.~~

(3) The interest earned from investment of the reserve fund shall be deposited in a fund established in the state treasurer's office, to be known as the department of labor special administration fund, hereinafter "special administration fund." The moneys in the special administration fund shall be held separate and apart from all other public funds of this state. The state treasurer shall be the custodian of this fund and may invest said moneys in

accordance with law. Any interest earned on said moneys shall be deposited in the special administration fund. ~~In the absence of a specific appropriation, the moneys in the special administration fund are perpetually appropriated to the director and may be expended with the approval of the advisory council appointed pursuant to section 72-1336, Idaho Code, for costs related to programs administered by the department. The director shall report annually to the joint finance-appropriations committee and the advisory council the expenditures and disbursements made from the fund during the preceding fiscal year, and the expenditures and disbursements and commitments made during the current fiscal year to date.~~

(4) Administrative costs related to the reserve fund and the special administration fund shall be paid from federal administrative grants received under title III of the social security act, to the extent permitted by federal law, and then from the special administration fund.

SECTION 5. That Section 72-1348, Idaho Code, be, and the same is hereby amended to read as follows:

72-1348. STATE EMPLOYMENT SECURITY ADMINISTRATIVE AND REIMBURSEMENT FUND. (1) There is created in the state treasury the "Sstate Employment Security Aadministrative and Reimbursement Fund." Notwithstanding the provisions of sections 72-1346 and 72-1347, Idaho Code, the fund shall consist of:

(a) All penalties, and all interest on judgments or accounts secured by liens, collected pursuant to the provisions of sections 72-1347A, 72-1347B and 72-1354 through 72-1364, Idaho Code, but only after such interest and penalties have been deposited in the clearing account and are thereafter transferred to this fund in such amounts as, in the discretion of the director, will leave a sufficient balance of interest and penalties in the clearing account to pay refunds; and

(b) Reed act moneys appropriated for the purchase of land and buildings pursuant to section 72-1346(5), Idaho Code.

(2) Moneys referred to in subsection (1) (a) of this section are perpetually appropriated to the director and may be used upon written authorization of the board of examiners for any lawful purpose, including, but not limited to:

(a) As a revolving fund to cover expenditures for which federal funds have been duly requested but not yet received, subject to reimbursement upon receipt of the federal funds;

(b) For the payment of costs of administration including costs not validly chargeable against federal grants;

(c) For the payment of refunds of penalties pursuant to section 72-1357, Idaho Code; and

(d) For the purchase of land and buildings for the purpose of providing office space for the department.

(3) Moneys referred to in subsection (1) (b) of this section may be used by the department to acquire for and in the name of the state by term purchase agreement lands and buildings for office space for the department at such places as the director finds necessary. An agreement made for the purchase of premises pursuant to this subsection shall be subject to the approval of the attorney general as to form and title.

Premises purchased pursuant to this section shall be used for the department, or, if it is desirable to move the department, similar space will be furnished by the state to the department without further payment therefor by the United States.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 12, 2018

CHAPTER 48
(H.B. No. 383, As Amended in the Senate)

AN ACT

RELATING TO CIGARETTE AND TOBACCO PRODUCT TAXES; AMENDING SECTION 63-2516, IDAHO CODE, TO PROVIDE FOR FINAL DECISIONS OF THE COMMISSION; AND AMENDING SECTION 63-2563, IDAHO CODE, TO PROVIDE FOR EXAMINATION OF RETURN AND DETERMINATION OF TAX, TO PROVIDE FOR FINAL DECISIONS OF THE COMMISSION AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 63-2516, Idaho Code, be, and the same is hereby amended to read as follows:

63-2516. COLLECTION AND ENFORCEMENT -- ACTIONS AGAINST STATE OF IDAHO. In addition to the enforcement and penalty provisions in this act otherwise provided, the deficiency in tax and notice of deficiency as well as the collection and enforcement procedures provided by the Idaho income tax act, sections 63-3030A, 63-3038, 63-3039, 63-3040, 63-3042, 63-3043, 63-3044, 63-3045, 63-3045A, 63-3045B, 63-3046, 63-3047, 63-3048 through 63-3065, 63-3068, 63-3071, 63-3073, 63-3075 and 63-3078, Idaho Code, shall apply and be available to the state tax commission for enforcement of the provisions of this act and the assessment and collection of any amounts due, and said sections shall for this purpose be considered a part of this act and wherever liens or any other proceedings are defined as income tax liens or proceedings they shall, when applied in enforcement or collection under this act, be described as cigarette tax liens and proceedings. Any reference to taxable year in the income tax act shall be, for the purposes of this act, considered a taxable period.

The state tax commission may be made a party defendant in an action at law or in equity by any person aggrieved by the unlawful seizure or sale of his property, or in any suit for refund or to recover an overpayment, but only the state of Idaho shall be responsible for any final judgment secured against the state tax commission, and said judgment shall be paid as provided for payment of cigarette tax refunds.

SECTION 2. That Section 63-2563, Idaho Code, be, and the same is hereby amended to read as follows:

63-2563. COLLECTION AND ENFORCEMENT. The collection and enforcement procedures provided by the Idaho income tax act, sections 63-3038, 63-3039, 63-3040, 63-3042 through 63-3045AB, 63-3047 through 63-3065A, 63-3068, 63-3071, 63-3075 and 63-3078, Idaho Code, shall apply and be available to the state tax commission for the enforcement of this act and collection of any amounts due under this act and said sections shall, for this purpose, be considered part of this act and wherever liens or any other proceedings are defined as income tax liens or proceedings, they shall, when applied in enforcement or collection under this act, be described as tobacco products tax liens and proceedings. Any reference to taxable year in the income tax act shall be, for the purposes of this act, considered a taxable period.

The state tax commission may be made a party defendant in an action at law or in equity by any person aggrieved by the unlawful seizure or sale of his property, or in any suit for refund or to recover an overpayment, but only the state of Idaho shall be responsible for any final judgment secured against the state tax commission, and said judgment shall be paid or satisfied out of the tobacco products tax refund fund.

Approved March 12, 2018

CHAPTER 49
(H.B. No. 336)

AN ACT

RELATING TO MEDICAID; AMENDING SECTION 56-1503, IDAHO CODE, TO PROVIDE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 56-1504, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE NURSING FACILITY ASSESSMENT FUND; AND AMENDING SECTION 56-1511, IDAHO CODE, TO REVISE PROVISIONS REGARDING ANNUAL NURSING FACILITY ADJUSTMENT PAYMENTS.

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

SECTION 1. That Section 56-1503, Idaho Code, be, and the same is hereby amended to read as follows:

56-1503. DEFINITIONS. As used in this chapter:

- (1) "CMS" means the centers for medicare and medicaid.
- (2) "Department" means the department of health and welfare.
- (3) "Fiscal year" means the time period from July 1 to June 30.
- (4) "Fund" means the nursing facility assessment fund established pursuant to section 56-1504, Idaho Code.
- (5) "Net patient service revenue" means gross revenues from services provided to nursing facility patients, less reductions from gross revenue resulting from an inability to collect payment of charges. Patient service revenue excludes nonpatient care revenues such as beauty and barber, vending income, interest and contributions, revenues from sale of meals and all outpatient revenues. Reductions from gross revenue includes: bad debts; contractual adjustments; uncompensated care; administrative, courtesy and policy discounts and adjustments; and other such revenue deductions.
- (6) "Nursing facility" means a nursing facility as defined in section 39-1301, Idaho Code, and licensed pursuant to chapter 13, title 39, Idaho Code.
- (7) "Resident day" means a calendar day of care provided to a nursing facility resident, including the day of admission and excluding the day of discharge, provided that one (1) resident day shall be deemed to exist when admission and discharge occur on the same day.
- (8) "Medicare part A resident days" means those resident days funded by the medicare program or by a medicare advantage or special needs plan.
- (9) "Upper payment limit" means the limitation established by federal regulations, 42 CFR 447.272, that disallows federal matching funds when state medicaid agencies pay certain classes of nursing facilities an aggregate amount for services that exceed the amount that is paid for the same services furnished by that class of nursing facilities under medicare payment principles.
- (10) "Value-based purchasing payments" means supplemental payments effective in state fiscal year 2021 made to providers for reaching department-selected quality indicators.

SECTION 2. That Section 56-1504, Idaho Code, be, and the same is hereby amended to read as follows:

56-1504. NURSING FACILITY ASSESSMENT FUND. (1) There is hereby created in the office of the state treasurer a dedicated fund to be known as the nursing facility assessment fund, hereinafter the "fund," to be administered by the department. The state treasurer shall invest idle moneys in the fund and any interest received on those investments shall be returned to the fund.

(2) Moneys in the fund shall consist of:

- (a) All moneys collected or received by the department from nursing facility assessments required pursuant to this chapter;
- (b) All federal matching funds received by the department as a result of expenditures made by the department that are attributable to moneys deposited in the fund;
- (c) Any interest or penalties levied in conjunction with the administration of this chapter; and
- (d) Any appropriations, federal funds, donations, gifts or moneys from any other sources.

(3) The fund is created for the purpose of receiving moneys in accordance with this section and section 56-1511, Idaho Code. Collected assessment funds shall be used to secure federal matching funds available through the state medicaid plan, which funds shall be used to make medicaid payments for nursing facility services that equal or exceed the amount of nursing facility medicaid rates, in the aggregate, as calculated in accordance with the approved state medicaid plan in effect on June 30, 2009. The fund shall be used exclusively for the following purposes:

- (a) To pay administrative expenses incurred by the department or its agent in performing the activities authorized pursuant to this chapter, provided that such expenses shall not exceed a total of one percent (1%) of the aggregate assessment funds collected for the prior fiscal year.
- (b) To reimburse the medicaid share of the assessment as a pass-through in accordance with IDAPA 16.03.10.264.
- (c) To, at a minimum, make provide financial incentives for nursing facility adjustment payments that restore any rate reductions, in the aggregate, for the facilities to improve quality to be implemented as value-based purchasing payments in state fiscal years 2010 and 2011 year 2021 based on performance data from the prior state fiscal year, in accordance with section 56-1511, Idaho Code.
- (d) To increase nursing facility payments to fund covered services to medicaid beneficiaries within medicare upper payment limits, as negotiated with the department.
- (e) To repay the federal government any excess payments made to nursing facilities if the state plan, once approved by CMS, is subsequently disapproved for any reason, and after the state has appealed the findings. Nursing facilities shall refund the excess payments in question to the assessment fund. The state, in turn, shall return funds to both the federal government and nursing facility providers in the same proportion as the original financing. Individual nursing facilities shall be reimbursed based on the proportion of the individual nursing facility's assessment to the total assessment paid by nursing facilities. If a nursing facility is unable to refund payments, the state shall develop a payment plan and deduct moneys from future medicaid payments. The state will refund the federal government for the federal share of these overpayments.
- (f) To make refunds to nursing facilities pursuant to section 56-1507, Idaho Code.

SECTION 3. That Section 56-1511, Idaho Code, be, and the same is hereby amended to read as follows:

56-1511. ANNUAL NURSING FACILITY ADJUSTMENT PAYMENTS. (1) All nursing facilities, with the exception of the state and county-owned facilities not included in subsection (2) of this section, shall be eligible for annual nursing facility adjustments.

(2) The Idaho state veterans nursing homes shall be eligible to participate in the program and shall be eligible for annual nursing facility adjustments.

(3) For the purpose of this section, "nursing facility days" are days of nursing facility services paid for by the Idaho medical assistance program for the applicable state fiscal year.

(a) For state fiscal year 2010, medicaid days for each provider's cost report ending in calendar year 2008 shall be utilized to determine the nursing facility adjustment payment.

(b) For state fiscal year 2011, medicaid days for each provider's cost report ending in calendar year 2009 shall be utilized to determine the nursing facility adjustment payment.

(34) Adjustment payments shall be paid on an annual basis to reimburse covered medicaid expenditures in the aggregate within the upper payment limit.

(45) Each annual payment shall be made no later than thirty (30) days after the receipt of the last annual deposit of the nursing facility assessments required in section 56-1504, Idaho Code.

(6) The department shall implement quality performance reporting beginning in state fiscal year 2019.

(a) During state fiscal years 2019 and 2020, quality performance data will be provided to nursing facilities to illustrate how their performance would impact their value-based purchasing payment.

(b) For state fiscal year 2021 and beyond, payments from the fund described in section 56-1504, Idaho Code, shall be based on quality indicators.

Approved March 12, 2018

CHAPTER 50
(H.B. No. 476)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-406, IDAHO CODE, TO REVISE A LICENSE CLASS PROVISION REGARDING CERTAIN DISABLED PERSONS LICENSES; AND AMENDING SECTION 36-1604, IDAHO CODE, TO PROVIDE THAT SPECIFIED LIMITATION OF LIABILITY PROVISIONS SHALL APPLY TO GOVERNMENTAL ENTITIES, NONGOVERNMENTAL ORGANIZATIONS AND PERSONS THAT TAKE CERTAIN ACTIONS REGARDING LAND MADE AVAILABLE TO THE PUBLIC WITHOUT CHARGE FOR RECREATIONAL PURPOSES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 36-406, Idaho Code, be, and the same is hereby amended to read as follows:

36-406. RESIDENT FISHING, HUNTING AND TRAPPING LICENSES -- FEES. (a) Adult Licenses -- Combination -- Fishing -- Hunting -- Trapping. A license of the first class may be had by a person possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, for a combined fishing and hunting license entitling the purchaser

to hunt and fish for game animals, game birds, unprotected and predatory wildlife and fish of the state, a fee as specified in section 36-416, Idaho Code, for a fishing license entitling the purchaser to fish in the public waters of the state, a fee as specified in section 36-416, Idaho Code, for a hunting license entitling the purchaser to hunt game animals, game birds, unprotected and predatory wildlife of the state, and a fee as specified in section 36-416, Idaho Code, for a trapping license entitling the purchaser to trap wolves, furbearing animals and unprotected and predatory wildlife of the state.

(b) Junior Licenses -- Hunting -- Trapping. A license of the second class may be had by a person possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, for a hunting license, and a fee as specified in section 36-416, Idaho Code, for a trapping license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(c) Junior Combination -- Fishing Licenses. A license of the third class may be purchased by a person possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, for a combined fishing and hunting license, and a fee as specified in section 36-416, Idaho Code, for a fishing license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(d) Senior Resident Combination. A license of the fourth class may be had by a person possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, for a combined fishing and hunting license entitling the purchaser to the same privileges as the corresponding license of the first class provides.

(e) Lifetime Licenses -- Combination -- Hunting -- Fishing. A license of the fifth class may be obtained at no additional charge by a person possessing the qualifications therein described for a combined hunting and fishing license, for a hunting license, or for a fishing license, entitling the person to the same privileges as the corresponding license of the first class provides. Lifetime licensees must be certified under the provisions of section 36-413, Idaho Code, before being issued a license to hunt.

(f) A license of the eighth class may be had by a person possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, entitling the purchaser to hunt and fish for game animals, game birds, fish, and unprotected and predatory wildlife of the state. With payment of the required fee, a person shall receive with this license a deer tag, an elk tag, a black bear tag, a turkey tag, a mountain lion tag, a wolf tag, an archery hunt permit, a muzzleloader permit, a steelhead trout permit and an anadromous salmon permit. The director shall promptly transmit to the state treasurer all moneys received pursuant to this subsection for deposit as follows:

- (i) Five dollars and fifty cents (\$5.50) in the fish and game set-aside account for the purposes of section 36-111(1) (a), Idaho Code;
- (ii) Two dollars (\$2.00) in the fish and game set-aside account for the purposes of section 36-111(1) (b), Idaho Code;
- (iii) Three dollars and fifty cents (\$3.50) in the fish and game set-aside account for the purposes of section 36-111(1) (c), Idaho Code; and
- (iv) The balance in the fish and game account.

All persons purchasing a license pursuant to this subsection shall observe and shall be subject to all rules of the commission regarding the fish and wildlife of the state.

If the purchaser of this license does not meet the archery education requirements of section 36-411(b), Idaho Code, then, notwithstanding the provisions of section 36-304, Idaho Code, the archery hunt permit portion of this license is invalid. The fee for this license will not change and the license must be issued without the archery permit validation.

(g) Disabled Persons Licenses -- Combination -- Fishing. A license of the first class may be had by any resident disabled person on payment of a fee as specified in section 36-416, Idaho Code, for a combined fishing and hunting license, and a fee as specified in section 36-416, Idaho Code, for a fishing license, entitling the purchaser to the same privileges as the corresponding license of the first class provides. A disabled person means a person who is deemed disabled by one (1) or more, but not necessarily all, of the following: the railroad retirement board pursuant to title 45 of the United States Code, or certified as eligible for federal supplemental security income (SSI); or social security disability income (SSDI); or a non-service-connected veterans pension; or a service-connected veterans disability benefit with forty percent (40%) or more disability; or certified as permanently disabled by a physician. Once determination of permanent disability has been made with the department, the determination shall remain on file within the electronic filing system and the license holder shall not be required to present a physician's determination each year or prove their disability each year.

(h) Military Furlough Licenses -- Combination -- Fishing. A license of the first class may be had by a resident person engaged in the military service of the United States, while on temporary furlough or leave, possessing the qualifications therein described on payment of a fee as specified in section 36-416, Idaho Code, for a combined fishing and hunting license, and as specified in section 36-416, Idaho Code, for a fishing license.

(i) Adult Licenses -- Three Year -- Combination -- Fishing -- Hunting. A license of the first class may be had by a person possessing the qualifications therein described on payment of three (3) times the fee as specified in section 36-416, Idaho Code, for a combined fishing and hunting license entitling the purchaser to hunt and fish for game animals, game birds, fish, unprotected and predatory wildlife of the state, three (3) times the fee as specified in section 36-416, Idaho Code, for a fishing license entitling the purchaser to fish in the public waters of the state, or three (3) times the fee as specified in section 36-416, Idaho Code, for a hunting license entitling the purchaser to hunt game animals, game birds, unprotected and predatory wildlife of the state. The expiration date for said licenses shall be December 31 of the third year following the date of issuance.

(j) Junior Licenses -- Three Year -- Hunting. A license of the second class may be had by a person possessing the qualifications therein described on payment of three (3) times the fee as specified in section 36-416, Idaho Code, for a hunting license. The expiration date for said license shall be December 31 of the third year following the date of issuance.

(k) Junior Licenses -- Three Year -- Combination -- Fishing Licenses. A license of the third class may be purchased by a person possessing the qualifications therein described on payment of three (3) times the fee as specified in section 36-416, Idaho Code, for a combined fishing and hunting license and three (3) times the fee as specified in section 36-416, Idaho Code, for a fishing license entitling the purchaser to the same privileges as the corresponding license of the first class provides. The expiration date for said licenses shall be December 31 of the third year following the date of issuance.

(l) Senior Resident Combination License -- Three Year. A license of the fourth class may be had by a person possessing the qualifications therein described on payment of three (3) times the fee as specified in section 36-416, Idaho Code, for a combined fishing and hunting license entitling the purchaser to the same privileges as the corresponding license of the first class provides. The expiration date for said license shall be December 31 of the third year following the date of issuance.

(m) Disabled Persons Licenses -- Three Year -- Combination -- Fishing. A license of the ~~ninth~~ first class may be had by any resident disabled person possessing the qualifications therein described on payment of three (3)

times the fee as specified in section 36-416, Idaho Code, for a combined fishing and hunting license, and a fee as specified in section 36-416, Idaho Code, for a fishing license entitling the purchaser to the same privileges as the corresponding license of the first class provides. The expiration date for said licenses shall be December 31 of the third year following the date of issuance.

SECTION 2. 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 liability toward persons entering thereon for such 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 which 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. "Land" means private or public land, roads, airstrips, trails, water, watercourses, irrigation dams, water control structures, headgates, private or public ways and buildings, structures, and machinery or equipment when attached to or used on the realty.
3. "Owner" means the possessor of a fee interest, a tenant, lessee, occupant or person in control of the premises.
4. "Recreational purposes" includes, but is not limited to, any of the following activities or any combination thereof: hunting, fishing, swimming, boating, rafting, tubing, camping, picnicking, hiking, pleasure driving, the flying of aircraft, bicycling, running, playing on playground equipment, skateboarding, athletic competition, nature study, ~~water skiing~~ waterskiing, animal riding, motorcycling, snowmobiling, recreational vehicles, winter sports, and viewing or enjoying historical, archeological, scenic, geological or scientific sites, when done without charge of the owner.

(c) Owner Exempt from Warning. An owner of land owes no duty of care to keep the premises safe for entry by others for recreational purposes, or to give any warning of a dangerous condition, use, structure, or activity on such premises 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 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 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 leased to the state or any subdivision thereof for recreational purposes.

(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.

(hi) 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 property, livestock or crops which he may cause while on said property.

Approved March 12, 2018

CHAPTER 51
(H.B. No. 349)

AN ACT

RELATING TO OCCUPATIONAL THERAPY; AMENDING SECTION 54-3702, IDAHO CODE, TO CLARIFY LANGUAGE REGARDING LICENSURE OF CERTAIN PERSONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-3704, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-3709, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE; AND AMENDING SECTION 54-3714, IDAHO CODE, TO CLARIFY LANGUAGE REGARDING THE QUALIFICATIONS OF OCCUPATIONAL THERAPY LICENSURE BOARD MEMBERS.

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

SECTION 1. That Section 54-3702, Idaho Code, be, and the same is hereby amended to read as follows:

54-3702. DEFINITIONS. As used in this chapter:

- (1) "Association" means the Idaho occupational therapy association.
- (2) "Board" means the occupational therapy licensure board of Idaho as set out in section 54-3717, Idaho Code.
- (3) "Bureau" means the bureau of occupational licenses.
- (4) "Department" means the department of self-governing agencies.
- (5) "Good standing" means the individual's license, ~~certification, or registration~~ is not currently suspended or revoked by any state regulatory entity.
- (6) "Graduate occupational therapist" means a person who holds a certificate of graduation from an approved occupational therapy curriculum, who has submitted a completed application for certification by examination, and who may practice occupational therapy in association with and under the

supervision of an occupational therapist and under authority of a limited permit.

(7) "Graduate occupational therapy assistant" means a person who holds a certificate of graduation from an approved occupational therapy assistant curriculum, who has submitted a completed application for licensure by examination under this chapter and is performing the duties of occupational therapy assistant in association with and under the supervision of an occupational therapist and under the authority of a limited permit.

(8) "License" means a document issued by the board to a person under this chapter authorizing the person to practice as an occupational therapist or occupational therapy assistant.

(9) "Occupational therapist" means a person licensed under this chapter to practice occupational therapy.

(10) "Occupational therapy" means the care and services provided by or under the direction and supervision of an occupational therapist.

(11) "Aide in the delivery of occupational therapy services" means a person who is not licensed by the board and who provides supportive services to occupational therapists and occupational therapy assistants. An aide shall function only under the guidance, responsibility and line of sight supervision of the licensed occupational therapist or an occupational therapy assistant who is appropriately supervised by an occupational therapist. The aide provides only specifically selected client-related or nonclient-related tasks for which the aide has been trained and has demonstrated competence.

(12) "Occupational therapy assistant" means a person licensed under this chapter to practice occupational therapy, and who works under the supervision of an occupational therapist. (-)

(13) "Practice of occupational therapy" means the therapeutic use of everyday life activities (occupations) with individuals or groups for the purpose of participation in roles and situations in home, school, workplace, community, and other settings. Occupational therapy services are provided for the purpose of promoting health and wellness and to those who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction. Occupational therapy addresses the physical, cognitive, psychosocial, sensory, and other aspects of performance in a variety of contexts to support engagement in everyday life activities that affect health, well-being and quality of life. The practice of occupational therapy includes:

(a) Develop Development of occupation-based plans, methods or strategies selected to direct the process of interventions such as:

(i) Establishment, remediation, or restoration of a skill or ability that has not yet developed or is impaired.

(ii) Compensation, modification, or adaptation of activity or environment to enhance performance.

(iii) Maintenance and enhancement of capabilities without which performance in everyday life activities would decline.

(iv) Health promotion and wellness to enable or enhance performance in everyday life activities.

(v) Prevention of barriers to performance, including disability prevention.

(b) Evaluation of factors affecting a client's occupational performance areas of activities of daily living (ADL), instrumental activities of daily living (IADL), rest and sleep, education, work, play, leisure, and social participation, including:

(i) Client factors, including body functions (such as neuromuscular, sensory, visual, perceptual, cognitive), values, beliefs, and spirituality, and body structures (such as cardiovascular, digestive, integumentary, genitourinary systems).

- (ii) Performance patterns, including habits, routines, roles, and behavior patterns.
 - (iii) Contexts and activity demands that affect performance, including cultural, physical, environmental, social, virtual and temporal.
 - (iv) Performance skills, including sensory perceptual skills, motor and praxis skills, emotional regulation skills, cognitive skills, communication and social skills.
- (c) Interventions and procedures to promote or enhance safety and performance in activities of daily living (ADL), instrumental activities of daily living (IADL), education, work, play, leisure, and social participation, rest and sleep, including:
- (i) Therapeutic use of occupations, exercises, and activities.
 - (ii) Training in self-care, self-management, home management, and community/work reintegration.
 - (iii) Development, remediation, or compensation of physical, cognitive, neuromuscular, sensory functions and behavioral skills.
 - (iv) Therapeutic use of self, including one's personality, insights, perceptions, and judgments, as part of the therapeutic process.
 - (v) Education and training of individuals, including family members, caregivers, and others.
 - (vi) Care coordination, case management, and transition services.
 - (vii) Consultative services to groups, programs, organizations, or communities.
 - (viii) Modification of environments (home, work, school, or community) and adaptation of processes, including the application of ergonomic principles.
 - (ix) Assessment, design, fabrication, application, fitting, and training in assistive technology, adaptive devices, orthotic devices, and prosthetic devices.
 - (x) Assessment, recommendation, and training in techniques to enhance functional mobility, including wheelchair management.
 - (xi) Driver rehabilitation and community mobility.
 - (xii) Management of feeding, eating, and swallowing to enable eating and feeding performance.
 - (xiii) Application of superficial, thermal and mechanical physical agent modalities, and use of a range of specific therapeutic procedures (such as basic wound management; techniques to enhance sensory, perceptual, and cognitive processing; therapeutic exercise techniques to facilitate participation in occupations) to enhance performance skills.
 - (xiv) Use of specialized knowledge and skills as attained through continuing education and experience for the application of deep thermal and electrotherapeutic modalities, therapeutic procedures specific to occupational therapy and wound care management for treatment to enhance participation in occupations as defined by rules adopted by the board.
- (d) Engaging in administration, consultation, testing, education and research as related to paragraphs (a), (b) and (c) of this subsection and further established in rule.

SECTION 2. That Section 54-3704, Idaho Code, be, and the same is hereby amended to read as follows:

54-3704. EXEMPTIONS. Nothing in this chapter shall be construed as preventing or restricting the practice, services or activities or requiring licensure pursuant to this chapter of:

(1) Any person licensed or regulated by the state of Idaho from engaging in the profession or practice for which they are licensed or regulated, including, but not limited to, any athletic trainer, chiropractor, dentist, nurse, physician, podiatrist, physical therapist, optometrist, osteopath, surgeon or any other licensed or regulated practitioner of the healing arts, nor restrict employees working under the direct supervision of those persons referred to in this subsection ~~(1)~~, so as long as such person does not hold himself or herself out as an occupational therapist, occupational therapy assistant or a person engaged in the practice of occupational therapy; or

(2) Any person employed as an occupational therapist or occupational therapy assistant by the government of the United States or any agency thereof, if such person provides occupational therapy solely under the direction or control of the organization by which such person is employed; or

(3) Any person pursuing a supervised course of study leading to a degree or certificate in occupational therapy in an accredited or approved educational program, if the person is designated by a title which clearly indicates a student or trainee status; or

(4) Any person fulfilling the supervised fieldwork experience requirements of section 54-3706, Idaho Code, if the experience constitutes a part of the experience necessary to meet the requirement of that section; or

(5) Any person who, for purposes of continuing education, consulting, and/or training, who is performing occupational therapy services in this state, for no more than sixty (60) days in a calendar year in association with an occupational therapist licensed under this chapter, if:

~~(a) The person is a licensed as an occupational therapist or occupational therapy assistant in good standing in another state; or~~

~~(b) The person is certified as an occupational therapist registered (OTR) or a certified occupational therapy assistant (COTA) by the national board for certification of occupational therapy or a successor organization as established in rule.~~

SECTION 3. That Section 54-3709, Idaho Code, be, and the same is hereby amended to read as follows:

54-3709. WAIVER OF REQUIREMENTS -- LICENSE ENDORSEMENT. ~~(1) The licensure board shall grant a license to any person certified prior to the effective date of this chapter and practicing in Idaho as an occupational therapist registered (OTR) or a certified occupational therapy assistant (COTA) by the national board for certification in occupational therapy or a predecessor organization as established in rule. The licensure board may waive the examination, education, or experience requirements and grant a license to any person certified by the national board for certification after the effective date of this chapter if the board determines the requirements for such certification are equivalent to the requirements for licensure in this chapter.~~

~~(2) The licensure board may waive the examination, education, or experience requirements and grant a license to any applicant who shall present proof of current licensure as an occupational therapist or occupational therapy assistant in another state, the District of Columbia, or territory of the United States which requires standards for licensure considered by the board to be equivalent to the requirements for licensure pursuant to this chapter.~~

SECTION 4. That Section 54-3714, Idaho Code, be, and the same is hereby amended to read as follows:

54-3714. LICENSURE BOARD. (1) 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 registered occupational therapists (~~OTR's~~), one (1) of whom shall be a certified an occupational therapy assistant (~~COTA~~), 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.

(2) 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.

(3) 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.

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

Approved March 12, 2018

CHAPTER 52
(H.B. No. 343)

AN ACT

RELATING TO DENTISTS; AMENDING SECTION 54-903, IDAHO CODE, TO REVISE A DEFINITION.

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

SECTION 1. That Section 54-903, Idaho Code, be, and the same is hereby amended to read as follows:

54-903. GENERAL DEFINITIONS. As used in this chapter:

(1) "Association" means the Idaho state dental association and the Idaho dental hygienists' association.

(2) "Board" means the state board of dentistry.

(3) "Conviction" or "convicted" means a finding of guilt by a judge or jury, an entry of a guilty plea by a defendant and its acceptance by the court, a forfeiture of a bail bond or collateral deposited to secure a defendant's appearance, a judgment of conviction, a suspended sentence, probation, or a withheld judgment.

(4) "Dental assistant" is a person who need not be licensed under this chapter, but who is regularly employed at a dental office, who works under a dentist's supervision, and is adequately trained and qualified according to standards established by the board to perform the dental services permitted to be performed by assistants by this chapter and applicable rules of the board.

(5) "Dental hygienist" is a person both qualified and licensed by the laws of Idaho to practice dental hygiene.

(6) "Dental specialist" is a dentist ~~who limits practice to a specialty recognized by the American dental association,~~ who has graduated from a board-approved postgraduate program in the dentist's specialty and is a person both qualified and licensed by the laws of Idaho to practice a dental specialty recognized by the board.

(7) "Dentist" is a person both qualified and licensed by the laws of Idaho to practice dentistry.

(8) "Direct supervision" is supervision of a dental assistant or dental hygienist requiring that a dentist diagnose the condition to be treated, that a dentist authorize the procedure to be performed, that a dentist remain in the dental office while the procedure is performed, and that before dismissal of the patient a dentist approves the work performed by the dental assistant or dental hygienist.

(9) "Extended access oral health care program" means and includes:

(a) Dental and dental hygiene treatment and services provided as part of a program conducted by or through a school district, county, state or federal agency, hospital, long-term care facility, public health district, dental or dental hygiene school, tribal clinic, or federally qualified health center; or

(b) Oral health care programs approved by the board and conducted by or through a nonprofit public or private entity, organized in accordance with section 501(c)(3) or 501(c)(4) of the federal Internal Revenue Code, that provide free dental or dental hygiene services to persons who, due to age, infirmity, indigence, disability or other similar reason, may be unable to receive regular dental and dental hygiene treatment. The board may require reapproval of the oral health care programs on an annual basis or at such other times as may be deemed by the board to be necessary or appropriate.

(10) "General supervision" is supervision of a dental assistant or dental hygienist requiring that a dentist authorize the procedure which is carried out, but not requiring that a dentist be in the office when the authorized procedure is performed.

(11) "Indirect supervision" is supervision of a dental assistant or dental hygienist requiring that a dentist authorize a procedure and that a dentist be in the dental office while the procedure is performed by the assistant or hygienist.

Approved March 12, 2018

CHAPTER 53
(H.B. No. 344)

AN ACT

RELATING TO DENTISTS; AMENDING SECTION 54-903, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 54-904, IDAHO CODE, TO REVISE PROVISIONS REGARDING CERTAIN PROCEDURES PERFORMED BY DENTAL HYGIENISTS; AND AMENDING SECTION 54-935, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-903, Idaho Code, be, and the same is hereby amended to read as follows:

54-903. GENERAL DEFINITIONS. As used in this chapter:

(1) "Association" means the Idaho state dental association and the Idaho dental hygienists' association.

(2) "Board" means the state board of dentistry.

(3) "Conviction" or "convicted" means a finding of guilt by a judge or jury, an entry of a guilty plea by a defendant and its acceptance by the court, a forfeiture of a bail bond or collateral deposited to secure a defendant's appearance, a judgment of conviction, a suspended sentence, probation, or a withheld judgment.

(4) "Dental assistant" is a person who need not be licensed under this chapter, but who is regularly employed at a dental office, who works under a dentist's supervision, and is adequately trained and qualified according to standards established by the board to perform the dental services permitted to be performed by assistants by this chapter and applicable rules of the board.

(5) "Dental hygienist" is a person both qualified and licensed by the laws of Idaho to practice dental hygiene.

(6) "Dental specialist" is a dentist who limits practice to a specialty recognized by the American dental association, who has graduated from a board-approved postgraduate program in the dentist's specialty and is a person both qualified and licensed by the laws of Idaho to practice a dental specialty.

(7) "Dentist" is a person both qualified and licensed by the laws of Idaho to practice dentistry.

(8) "Direct supervision" is supervision of a dental assistant or dental hygienist requiring that a dentist diagnose the condition to be treated, that a dentist authorize the procedure to be performed, that a dentist remain in the ~~dental office practice setting~~ while the procedure is performed, and that before dismissal of the patient a dentist approves the work performed by the dental assistant or dental hygienist.

(9) "Extended access oral health care ~~program setting~~" means and includes:

(a) Dental and dental hygiene treatment and services provided ~~as part of a program conducted by or through~~ at locations including, but not limited to, a school district, county, state or federal agency, hospital, medical office, long-term care facility, public health district, dental or dental hygiene school, tribal clinic, or federally qualified health center; or

(b) Oral health care programs approved by the board and conducted by or through a nonprofit public or private entity, organized in accordance with section 501(c)(3) or 501(c)(4) of the federal Internal Revenue Code, that provide free dental or dental hygiene services to persons who, due to age, infirmity, indigence, disability or other similar reason, may be unable to receive regular dental and dental hygiene treatment. The board may require reapproval of the oral health care programs on an annual basis or at such other times as may be deemed by the board to be necessary or appropriate.

(10) "General supervision" is supervision of a dental assistant or dental hygienist requiring that a dentist authorize the procedure which is carried out, but not requiring that a dentist be in the ~~office practice setting~~ when the authorized procedure is performed.

(11) "Indirect supervision" is supervision of a dental assistant or dental hygienist requiring that a dentist authorize a procedure and that a dentist be in the ~~dental office practice setting~~ while the procedure is performed by the assistant or hygienist.

SECTION 2. That Section 54-904, Idaho Code, be, and the same is hereby amended to read as follows:

54-904. AUTHORIZATION FOR PROCEDURES PERFORMED UNDER GENERAL SUPERVISION BY DENTAL HYGIENISTS. A dental hygienist is authorized to practice under general supervision when:

(1) In a private dental office where the dental hygienist works, a licensed dentist has diagnosed the condition to be treated and determined the procedure to be performed, or has authorized a qualified dental hygienist to perform the prescribed treatment; or

(2) In an extended access oral health care program, ~~a supervisory setting, the supervising dentist, who is employed or retained by or is a volunteer for the program,~~ has determined the treatment to be provided and has authorized dental hygiene procedures that may be performed and has issued written orders to a dental hygienist holding a license with an extended access dental hygiene endorsement to provide the prescribed authorized treatment. The supervising dentist shall be responsible to treat the patient's dental needs or refer the patient to another dentist for treatment.

SECTION 3. That Section 54-935, Idaho Code, be, and the same is hereby amended to read as follows:

54-935. VOLUNTEER'S LICENSE -- QUALIFICATIONS -- PERMISSIBLE PRACTICE -- IMMUNITY FROM LIABILITY. (1) Upon application and qualification, the board may issue, without examination, a volunteer's license to a dentist or dental hygienist who is retired from the active practice of dentistry or dental hygiene to enable the retired dentist or dental hygienist to provide dental or dental hygiene services at specified locations to persons who, due to age, infirmity, indigence or disability, are unable to receive regular dental treatment.

(2) For purposes of this section, a dentist or dental hygienist previously holding a dental or dental hygiene license with active status in Idaho or another state shall be considered to be retired if, prior to the date of application for a volunteer's license, he has surrendered or allowed his license with active status to expire with the intention of ceasing to actively practice as a dentist or dental hygienist for remuneration, he has converted his license with active status to a license with inactive status with the intention of ceasing to actively practice as a dentist or dental hygienist for remuneration, or he has converted his license with active or inactive status to a license with retirement or similar status that proscribed the active practice of dentistry or dental hygiene. A dentist or dental hygienist whose dental or dental hygiene license had been restricted, suspended, revoked, surrendered, resigned, converted, or allowed to lapse or expire as the result of disciplinary action or in lieu of disciplinary action being taken shall not be eligible for a volunteer's license.

(3) An application for a volunteer's license shall include, but not be limited to, the following:

(a) Verification of graduation from a dental or dental hygiene school accredited by the Commission on Dental Accreditation of the American Dental Association as of the date of the applicant's graduation;

(b) Verification from each state board in which the applicant was licensed that the applicant maintained his dental or dental hygiene license in good standing without disciplinary action that restricted the applicant's license or resulted in the applicant's license being placed on probation, suspended, revoked or being surrendered, resigned or otherwise allowed to lapse or expire in lieu of disciplinary action;

(c) Verification that the applicant held a dental or dental hygiene license in good standing in Idaho or another state as of the date upon which the dentist or dental hygienist became retired;

(d) Verification that the applicant held an active status dental or dental hygiene license in good standing in Idaho or another state within

five (5) years of the date of application for a volunteer's license, provided, that the board may waive the five (5) year requirement in the event that the applicant demonstrates he possesses the knowledge and skills requisite to the practice of dentistry or dental hygiene by successfully completing such examinations as are required by the board; and

(e) A notarized statement from the applicant on a form prescribed by the board, that the applicant will not provide any dental or dental hygiene services to any person or at any location other than as permitted by this section and that the applicant will not accept any amount or form of remuneration, other than as reimbursement for the amount of actual expenses incurred as a volunteer dentist or dental hygienist, for any dental or dental hygiene services provided under the authority of a volunteer's license.

(4) For purposes of this section, the specified locations at which a dentist or dental hygienist holding a volunteer's license may provide dental or dental hygiene services shall be limited to the premises or sites of extended access oral health care programs settings. The dental services provided at in an extended access oral health care program setting by a dentist holding a volunteer's license shall not require or include the administration of general anesthesia or conscious moderate sedation to a patient unless otherwise specifically approved in advance by the board.

(5) A volunteer's license shall be valid for that period specified for dentists and dental hygienists in section 54-920, Idaho Code, and may be renewed upon application of the licensee unless the license has been revoked in accordance with this section. The board shall maintain a register of all dentists and dental hygienists who hold a volunteer's license. The board shall not charge an application or licensing fee for issuing or renewing a volunteer's license. A volunteer's license cannot be converted to a license with active, inactive, provisional or special status.

(6) The board may revoke a volunteer's license upon receiving proof satisfactory to the board that the holder of a volunteer's license provided dental or dental hygiene services outside the permissible scope of the volunteer's license or that grounds existed for enforcement or disciplinary action against the holder of a volunteer's license under other sections of this chapter or the administrative rules promulgated under this chapter.

(7) When practicing dentistry or dental hygiene within the permissible scope of a volunteer's license, the holder of a volunteer's license issued pursuant to this section shall be immune from liability for any civil action arising out of the provision of volunteer dental or dental hygiene services. This section does not provide or extend immunity to a holder of a volunteer's license for any acts or omissions constituting negligence.

Approved March 12, 2018

CHAPTER 54
(H.B. No. 345)

AN ACT

RELATING TO DENTISTS; AMENDING SECTION 54-903, IDAHO CODE, TO REVISE A DEFINITION.

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

SECTION 1. That Section 54-903, Idaho Code, be, and the same is hereby amended to read as follows:

54-903. GENERAL DEFINITIONS. As used in this chapter:

(1) "Association" means the Idaho state dental association and the Idaho dental hygienists' association.

(2) "Board" means the state board of dentistry.

(3) "Conviction" or "convicted" means a finding of guilt by a judge or jury, an entry of a guilty plea by a defendant and its acceptance by the court, a forfeiture of a bail bond or collateral deposited to secure a defendant's appearance, a judgment of conviction, a suspended sentence, probation, ~~or~~ a withheld judgment, or a finding of guilt under the uniform code of military justice.

(4) "Dental assistant" is a person who need not be licensed under this chapter, but who is regularly employed at a dental office, who works under a dentist's supervision, and is adequately trained and qualified according to standards established by the board to perform the dental services permitted to be performed by assistants by this chapter and applicable rules of the board.

(5) "Dental hygienist" is a person both qualified and licensed by the laws of Idaho to practice dental hygiene.

(6) "Dental specialist" is a dentist who limits practice to a specialty recognized by the American dental association, who has graduated from a board-approved postgraduate program in the dentist's specialty and is a person both qualified and licensed by the laws of Idaho to practice a dental specialty.

(7) "Dentist" is a person both qualified and licensed by the laws of Idaho to practice dentistry.

(8) "Direct supervision" is supervision of a dental assistant or dental hygienist requiring that a dentist diagnose the condition to be treated, that a dentist authorize the procedure to be performed, that a dentist remain in the dental office while the procedure is performed, and that before dismissal of the patient a dentist approves the work performed by the dental assistant or dental hygienist.

(9) "Extended access oral health care program" means and includes:

(a) Dental and dental hygiene treatment and services provided as part of a program conducted by or through a school district, county, state or federal agency, hospital, long-term care facility, public health district, dental or dental hygiene school, tribal clinic, or federally qualified health center; or

(b) Oral health care programs approved by the board and conducted by or through a nonprofit public or private entity, organized in accordance with section 501(c)(3) or 501(c)(4) of the federal Internal Revenue Code, that provide free dental or dental hygiene services to persons who, due to age, infirmity, indigence, disability or other similar reason, may be unable to receive regular dental and dental hygiene treatment. The board may require reapproval of the oral health care programs on an annual basis or at such other times as may be deemed by the board to be necessary or appropriate.

(10) "General supervision" is supervision of a dental assistant or dental hygienist requiring that a dentist authorize the procedure which is carried out, but not requiring that a dentist be in the office when the authorized procedure is performed.

(11) "Indirect supervision" is supervision of a dental assistant or dental hygienist requiring that a dentist authorize a procedure and that a dentist be in the dental office while the procedure is performed by the assistant or hygienist.

Approved March 12, 2018

CHAPTER 55
(H.B. No. 346)

AN ACT

RELATING TO DENTISTS; AMENDING SECTION 54-911, IDAHO CODE, TO REVISE PROVISIONS REGARDING COMPENSATION FOR MEMBERS OF THE BOARD OF DENTISTRY AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-911, Idaho Code, be, and the same is hereby amended to read as follows:

54-911. BOARD OF DENTISTRY -- ORGANIZATION -- MEETINGS -- EXPENSES -- PER DIEM. The board of dentistry shall select from its dentist members a chairman who shall serve at the pleasure of the board. The board may meet at stated times, and shall meet upon the call of its chairman or a majority of the members. It shall keep minutes of its meetings and actions thereat. Five (5) members, three (3) of whom must be dentists and two (2) of whom must be nondentists, shall constitute a quorum, and the vote of the majority of the members present at a meeting at which a quorum is present shall determine the action of the board.

Out of any appropriation applicable to the administration of this chapter, each member of the board shall be compensated as provided by section 59-509 (ap), Idaho Code.

Approved March 12, 2018

CHAPTER 56
(H.B. No. 347)

AN ACT

RELATING TO THE OFFICE OF OMBUDSMAN FOR THE ELDERLY; AMENDING SECTION 39-5303, IDAHO CODE, TO REVISE PROVISIONS REGARDING DUTY TO REPORT CASES OF ABUSE, NEGLECT OR EXPLOITATION OF VULNERABLE ADULTS; AND AMENDING SECTION 67-5009, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE OFFICE OF OMBUDSMAN FOR THE ELDERLY.

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

SECTION 1. That Section 39-5303, Idaho Code, be, and the same is hereby amended to read as follows:

39-5303. DUTY TO REPORT CASES OF ABUSE, NEGLECT OR EXPLOITATION OF VULNERABLE ADULTS. (1) Any physician, nurse, employee of a public or private health facility, or a state licensed or certified residential facility

serving vulnerable adults, medical examiner, dentist, ~~ombudsman for the elderly~~, osteopath, optometrist, chiropractor, podiatrist, social worker, police officer, pharmacist, physical therapist, or home care worker who has reasonable cause to believe that a vulnerable adult is being or has been abused, neglected or exploited shall immediately report such information to the commission. Provided however, that nursing facilities defined in section 39-1301(b), Idaho Code, and employees of such facilities shall make reports required under this chapter to the department. When there is reasonable cause to believe that abuse or sexual assault has resulted in death or serious physical injury jeopardizing the life, health or safety of a vulnerable adult, any person required to report under this section shall also report such information within four (4) hours to the appropriate law enforcement agency.

(2) Failure to report as provided under this section is a misdemeanor subject to punishment as provided in section 18-113, Idaho Code. If an employee at a state licensed or certified residential facility fails to report abuse or sexual assault that has resulted in death or serious physical injury jeopardizing the life, health or safety of a vulnerable adult as provided under this section, the department shall also have the authority to:

- (a) Revoke the facility's license and/or contract with the state to provide services;
- (b) Deny payment;
- (c) Assess and collect a civil monetary penalty with interest from the facility owner and/or facility administrator;
- (d) Appoint temporary management;
- (e) Close the facility and/or transfer residents to another certified facility;
- (f) Direct a plan of correction;
- (g) Ban admission of persons with certain diagnoses or requiring specialized care;
- (h) Ban all admissions to the facility;
- (i) Assign monitors to the facility; or
- (j) Reduce the licensed bed capacity.

Any action taken by the department pursuant to this subsection shall be appealable as provided in chapter 52, title 67, Idaho Code.

(3) Any person, including any officer or employee of a financial institution, who has reasonable cause to believe that a vulnerable adult is being abused, neglected or exploited may report such information to the commission or its contractors.

(4) The commission and its contractors shall make training available to officers and employees of financial institutions in identifying and reporting instances of abuse, neglect or exploitation involving vulnerable adults.

(5) Any person who makes any report pursuant to this chapter, or who testifies in any administrative or judicial proceeding arising from such report, or who is authorized to provide supportive or emergency services pursuant to the provisions of this chapter, shall be immune from any civil or criminal liability on account of such report, testimony or services provided in good faith, except that such immunity shall not extend to perjury, reports made in bad faith or with malicious purpose nor, in the case of provision of services, in the presence of gross negligence under the existing circumstances.

(6) Any person who makes a report or allegation in bad faith, with malice or knowing it to be false, shall be liable to the party against whom the report was made for the amount of actual damages sustained or statutory damages in the amount of five hundred dollars (\$500), whichever is greater, plus attorney's fees and costs of suit. If the court finds that the defendant acted with malice or oppression, the court may award treble actual damages or treble statutory damages, whichever is greater.

SECTION 2. That Section 67-5009, Idaho Code, be, and the same is hereby amended to read as follows:

67-5009. OFFICE OF OMBUDSMAN FOR THE ELDERLY. The office of ombudsman for the elderly is hereby created within the commission. The ombudsman shall be able to independently make determinations and establish positions of the office without necessarily representing the determinations or positions of the commission. The ombudsman shall be responsible for receiving, investigating and resolving or closing complaints made by or on behalf of residents of long-term care facilities or persons aged sixty (60) years or older living in the community. No representative of the office shall be liable for the good faith performance of official duties, and willful interference with representatives of the office is unlawful. Long-term care facilities are prohibited from interference, reprisals or retaliation against a resident, or employee or other person filing a complaint with, or furnishing information to, the office.

For the purposes of implementing the provisions of this section, the commission is hereby authorized as follows:

The administrator shall hire the state ombudsman for the elderly who shall be a person with the necessary educational background commensurate with the duties and responsibilities of the office of ombudsman and shall be a classified employee subject to the provisions of chapter 53, title 67, Idaho Code.

The ombudsman may delegate to designated local ombudsmen any duties deemed necessary to carry out the purposes of the provisions of this section.

The ombudsman shall establish procedures for receiving and processing complaints, conducting investigations and reporting his findings. He shall have jurisdiction to investigate administrative acts or omissions of long-term care facilities or state or county departments or agencies providing services to older people. An administrative act of a long-term care facility or state or county department or agency may become an appropriate subject for the ombudsman to investigate under certain circumstances. For example, the ombudsman may investigate such an act if it might be contrary to law, unreasonable, unfair, oppressive, capricious or discriminatory. The ombudsman may make a finding for an appropriate resolution to the subject matter of the investigation.

The ombudsman shall investigate any complaint ~~which~~ that he determines to be an appropriate subject for investigation under this section and will work to resolve the complaint to the satisfaction of the resident or the resident's representative.

~~When the ombudsman investigates a complaint, he shall notify the complainant, if any, of the investigation and shall also notify the long-term care facility or the state or county department or agency affected by the investigation of his intent to investigate. However, if no investigation takes place, he shall inform the complainant of the reasons therefor. Records obtained by the ombudsman shall be subject to disclosure according to chapter 1, title 74, Idaho Code.~~

In an investigation of any complaint or administrative act of any long-term care facility or state or county department or agency providing services to older people, the ombudsman may undertake, but not be limited to, any of the following actions:

(a) Make the necessary inquiries and obtain such information he deems necessary.

(b) Hold private hearings.

(c) Enter during regular business hours, a long-term care facility or state or county department or agency's premises, or enter at any time a long-term care facility.

Following the investigation and upon his determination that particular subject matter should be further considered by the long-term care facility

or state or county department or agency, an administrative act should be modified or canceled, a statute or regulation on which an administrative act is based should be altered, reasons should be given for an administrative act, or some other action should be taken by a long-term care facility or state or county department or agency, he shall report his opinions and recommendations to the respective parties. The ombudsman may request the parties affected by such opinions or recommendations to notify him within the specified time of any action taken by such parties on his recommendation. ~~Following an investigation, the ombudsman shall consult with the particular parties before issuing any opinion or recommendation that is critical to such parties.~~

The ombudsman shall notify, ~~the complainant in writing or verbally, the resident or the resident's representative~~ within a reasonable time from the date the investigation is terminated of any actions taken by him and the long-term care facility, or state or county department or agency to resolve any issues raised by the complaint.

The ombudsman, on December 1 of each year, shall submit to the governor, the speaker of the house, president of the senate, the department of health and welfare bureau division of licensing and certification, the president of the Idaho hospital association and the president of the Idaho health care association a report of the activities of the ombudsman for the elderly during the prior fiscal year. This report shall include, but not be limited to, the number and general patterns of complaints received by the ombudsman, the action taken on such complaints, the results of such action, and any opinions or recommendations which further the state's capability in providing for statutory resolution of complaints.

Nothing in this section shall be construed to be a limitation of the powers and responsibilities assigned by law to other state or county departments or agencies.

Records obtained by the ombudsman shall be subject to disclosure according to chapter 1, title 74, Idaho Code.

Approved March 12, 2018

CHAPTER 57
(H.B. No. 348)

AN ACT

RELATING TO THE STATE BOARD OF ACUPUNCTURE; AMENDING SECTION 54-4704, IDAHO CODE, TO INCREASE THE HONORARIUM FOR MEMBERS OF THE STATE BOARD OF ACUPUNCTURE.

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

SECTION 1. 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 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 (np), Idaho Code.

Approved March 12, 2018

CHAPTER 58
(H.B. No. 612)

AN ACT

RELATING TO TECHNOLOGY INFRASTRUCTURE FUNDING; AMENDING CHAPTER 35, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-3532, IDAHO CODE, TO ESTABLISH THE TECHNOLOGY INFRASTRUCTURE STABILIZATION FUND; AND PROVIDING FOR AN APPROPRIATION AND A TRANSFER OF FUNDS TO THE TECHNOLOGY INFRASTRUCTURE STABILIZATION FUND.

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 67-3532, Idaho Code, and to read as follows:

67-3532. TECHNOLOGY INFRASTRUCTURE STABILIZATION FUND. (1) There is hereby created in the state treasury the technology infrastructure stabilization fund. The fund shall consist of moneys that may be provided by legislative appropriation. The state treasurer shall invest the idle moneys of the fund, and the interest earned on such investments shall be retained by the fund.

(2) Subject to appropriation by the legislature, moneys in the technology infrastructure stabilization fund shall be used solely for:

(a) Technology projects requested, recommended, or funded through the annual state budget process pursuant to this chapter including, but not limited to, software development and computer hardware or equipment; and

(b) The legislative services office to evaluate and provide analysis and recommendations regarding the requirements, merit, necessity, cost, compatibility, and monitoring of technology projects that may be requested, recommended, or funded through the annual state budget process pursuant to this chapter, as well as other state technology projects, needs, or issues.

SECTION 2. There is hereby appropriated and the State Controller shall transfer \$22,000,000 from the General Fund to the Technology Infrastructure Stabilization Fund on July 1, 2018, or as soon thereafter as practicable, for the period July 1, 2018, through June 30, 2019.

Approved March 13, 2018

CHAPTER 59
(H.B. No. 350)

AN ACT

RELATING TO COUNSELORS AND THERAPISTS; AMENDING SECTION 54-3405B, IDAHO CODE, TO REVISE LICENSURE REQUIREMENTS FOR ASSOCIATE MARRIAGE AND FAMILY THERAPISTS; AND AMENDING SECTION 54-3405C, IDAHO CODE, TO REVISE LICENSURE REQUIREMENTS FOR MARRIAGE AND FAMILY THERAPISTS.

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

SECTION 1. That Section 54-3405B, Idaho Code, be, and the same is hereby amended to read as follows:

~~54-3405B. QUALIFICATIONS FOR LICENSURE. Licensure as a "licensed associate marriage and family therapist" shall be restricted to persons who have successfully completed each of the following requirements:~~

~~(1) A graduate degree which consists of at least sixty (60) semester hours or ninety (90) quarter credits in marriage and family therapy from a program accredited by the commission on accreditation for marriage and family therapy education, or a marriage and family counseling or therapy program which is accredited by the council for accreditation of counseling and related educational programs, or a graduate degree from a regionally accredited educational institution and an equivalent course of study as approved by the board. The course of study for any graduate degree shall include a minimum of thirty-nine (39) semester credits in the following areas:~~

~~(a) Marriage and family studies -- Nine (9) semester credit minimum. Studies in this area shall include:~~

~~(i) Theoretical foundations, history, philosophy, etiology and contemporary conceptual directions of marriage and family therapy or marriage and family counseling;~~

~~(ii) Family systems theories and other relevant theories and their application in working with a wide variety of family structures, including families in transition, nontraditional families and blended families, and a diverse range of presenting issues; and~~

~~(iii) Preventive approaches, including premarital counseling, parent skill training and relationship enhancement, for working with couples, families, individuals, subsystems and other systems.~~

~~(b) Marriage and family therapy -- Nine (9) semester credit minimum. Studies in this area shall include:~~

~~(i) The practice of marriage and family therapy related to theory, and a comprehensive survey and substantive understanding of the major models of marriage and family therapy or marriage and family counseling; and~~

~~(ii) Interviewing and assessment skills for working with couples, families, individuals, subsystems and other systems, and skills in the appropriate implementation of systematic interventions~~

~~across a variety of presenting clinical issues including, but not limited to, socioeconomic disadvantage, abuse and addiction.~~

~~(c) Human development -- Nine (9) semester credit minimum. Studies in this area shall include:~~

~~(i) Individual development and transitions across the life span;~~
~~(ii) Family, marital and couple life cycle development and family relationships, family of origin and intergenerational influences, cultural influences, ethnicity, race, socioeconomic status, religious beliefs, gender, sexual orientation, social and equity issues and disability;~~

~~(iii) Human sexual development, function and dysfunction, impacts on individuals, couples and families, and strategies for intervention and resolution; and~~

~~(iv) Issues of violence, abuse and substance use in a relational context, and strategies for intervention and resolution.~~

~~(d) Psychological and mental health competency -- Six (6) semester credit minimum. Studies in this area shall include:~~

~~(i) Psychopathology, including etiology, assessment, evaluation and treatment of mental disorders, use of the current diagnostic and statistical manual of mental disorders, differential diagnosis and multiaxial diagnosis;~~

~~(ii) Standard mental health diagnostic assessment methods and instruments, including standardized tests; and~~

~~(iii) Psychotropic medications and the role of referral to and cooperation with other mental health practitioners in treatment planning, and case management skills for working with individuals, couples and families.~~

~~(e) Professional ethics and identity -- Three (3) semester credit minimum. Studies in this area shall include:~~

~~(i) Professional identity, including professional socialization, professional organizations, training standards, credentialing bodies, licensure, certification, practice settings and collaboration with other disciplines;~~

~~(ii) Ethical and legal issues related to the practice of marriage and family therapy, legal responsibilities of marriage and family therapy and marriage and family counseling practice and research, business aspects, reimbursement, recordkeeping, family law, confidentiality issues and the relevant codes of ethics, including the code of ethics specified by the board; and~~

~~(iii) The interface between therapist responsibility and the professional, social and political context of treatment.~~

~~(f) Research -- Three (3) semester credit minimum. Studies in this area shall include:~~

~~(i) Research in marriage and family therapy or marriage and family counseling and its application to working with couples and families; and~~

~~(ii) Research methodology, quantitative and qualitative methods, statistics, data analysis, ethics and legal considerations of conducting research, and evaluation of research.~~

~~(2) Completion of a one (1) year practicum of supervised marriage and family therapy experience, consisting of a minimum of three hundred (300) direct client contact hours, of which one hundred fifty (150) hours shall be with couples or families, as part of the graduate program.~~

~~(3) Successful completion of a written examination as approved by the board and defined by rule~~

(1) In addition to such other information as the board may require by rule, each applicant for licensure as a licensed associate marriage and family therapist shall:

- (a) Hold a master's degree or higher in marriage and family therapy or a related field of study as approved by the board and complete a practicum of supervised clinical contact with individuals, couples, families and other systems as part of the graduate program and as defined by rule;
- (b) Submit an application in the form prescribed by the board;
- (c) Pay the fee determined by the board by rule; and
- (d) Provide evidence satisfactory to the board of having successfully passed an examination approved by the board and defined by rule.

(42) A license will not be allowed an individual whose license, certification or registration has been revoked or suspended in this or any other state and in this or any other related field. Such an individual may not be licensed under this chapter unless the period of revocation or suspension has been completed and the board has conducted a competency review and determined that an acceptable degree of rehabilitation has been accomplished.

SECTION 2. That Section 54-3405C, Idaho Code, be, and the same is hereby amended to read as follows:

54-3405C. QUALIFICATIONS FOR LICENSURE. ~~Licensure as a "marriage and family therapist" shall be restricted to persons who have successfully completed each of the following requirements:~~

~~(1) A graduate degree which consists of at least sixty (60) semester hours or ninety (90) quarter credits in marriage and family therapy from a program accredited by the commission on accreditation for marriage and family therapy education, or a marriage and family counseling or therapy program which is accredited by the council for accreditation of counseling and related educational programs, or a graduate degree from a regionally accredited educational institution and an equivalent course of study as approved by the board. The course of study for any graduate degree shall include a minimum of thirty-nine (39) semester credits in the following areas:~~

~~(a) Marriage and family studies -- nine (9) semester credit minimum. Studies in this area shall include:~~

~~(i) Theoretical foundations, history, philosophy, etiology and contemporary conceptual directions of marriage and family therapy or marriage and family counseling;~~

~~(ii) Family systems theories and other relevant theories and their application in working with a wide variety of family structures, including families in transition, nontraditional families and blended families, and a diverse range of presenting issues; and~~

~~(iii) Preventive approaches, including premarital counseling, parent skill training and relationship enhancement, for working with couples, families, individuals, subsystems and other systems.~~

~~(b) Marriage and family therapy -- nine (9) semester credit minimum. Studies in this area shall include:~~

~~(i) The practice of marriage and family therapy related to theory, and a comprehensive survey and substantive understanding of the major models of marriage and family therapy or marriage and family counseling; and~~

~~(ii) Interviewing and assessment skills for working with couples, families, individuals, subsystems and other systems, and skills in the appropriate implementation of systematic interventions across a variety of presenting clinical issues including, but not limited to, socioeconomic disadvantage, abuse and addiction.~~

~~(c) Human development -- nine (9) semester credit minimum. Studies in this area shall include:~~

~~(i) Individual development and transitions across the life span;~~

- ~~(ii) Family, marital and couple life cycle development and family relationships, family of origin and intergenerational influences, cultural influences, ethnicity, race, socioeconomic status, religious beliefs, gender, sexual orientation, social and equity issues and disability;~~
- ~~(iii) Human sexual development, function and dysfunction, impacts on individuals, couples and families, and strategies for intervention and resolution; and~~
- ~~(iv) Issues of violence, abuse and substance use in a relational context, and strategies for intervention and resolution.~~
- ~~(d) Psychological and mental health competency -- six (6) semester credit minimum. Studies in this area shall include:~~
 - ~~(i) Psychopathology, including etiology, assessment, evaluation and treatment of mental disorders, use of the current diagnostic and statistical manual of mental disorders, differential diagnosis and multiaxial diagnosis;~~
 - ~~(ii) Standard mental health diagnostic assessment methods and instruments, including standardized tests; and~~
 - ~~(iii) Psychotropic medications and the role of referral to and cooperation with other mental health practitioners in treatment planning, and case management skills for working with individuals, couples and families.~~
- ~~(e) Professional ethics and identity -- three (3) semester credit minimum. Studies in this area shall include:~~
 - ~~(i) Professional identity, including professional socialization, professional organizations, training standards, credentialing bodies, licensure, certification, practice settings and collaboration with other disciplines;~~
 - ~~(ii) Ethical and legal issues related to the practice of marriage and family therapy, legal responsibilities of marriage and family therapy and marriage and family counseling practice and research, business aspects, reimbursement, recordkeeping, family law, confidentiality issues and the relevant codes of ethics, including the code of ethics specified by the board; and~~
 - ~~(iii) The interface between therapist responsibility and the professional, social and political context of treatment.~~
- ~~(f) Research -- three (3) semester credit minimum. Studies in this area shall include:~~
 - ~~(i) Research in marriage and family therapy or marriage and family counseling and its application to working with couples and families; and~~
 - ~~(ii) Research methodology, quantitative and qualitative methods, statistics, data analysis, ethics and legal considerations of conducting research, and evaluation of research.~~
- ~~(2) Completion of a one (1) year practicum of supervised marriage and family therapy experience, consisting of a minimum of three hundred (300) direct client contact hours, of which one hundred fifty (150) hours shall be with couples or families, as part of the graduate program.~~
- ~~(3) Supervised experience in marriage and family therapy of three thousand (3,000) hours, acceptable to the board as defined by rule. A minimum of two hundred (200) hours of supervision of the postgraduate experience. Supervision may be provided by a clinical member of the American association for marriage and family therapy, by a licensed marriage and family therapist, or another qualified licensed professional as determined by the board and defined in rule who has a minimum of five (5) years experience providing marriage and family therapy, including: a licensed clinical professional counselor; licensed psychologist; licensed clinical social worker; or licensed psychiatrist.~~

~~(4) Successful completion of a written examination as approved by the board and defined by rule~~

(1) In addition to such other information as the board may require by rule, each applicant for licensure as a licensed marriage and family therapist shall:

(a) Hold a master's degree or higher in marriage and family therapy or a related field of study as approved by the board and complete a practicum of supervised clinical contact with individuals, couples, families and other systems as part of the graduate program and as defined by rule;

(b) Document postgraduate supervised experience in marriage and family therapy acceptable to the board as defined by rule;

(c) Submit an application in the form prescribed by the board;

(d) Pay the fee determined by the board by rule; and

(e) Provide evidence satisfactory to the board of having successfully passed an examination approved by the board and defined by rule.

(52) A license will not be allowed an individual whose license, certification or registration has been revoked or suspended in this or any other state and in this or any other related field. Such an individual may not be licensed under this chapter unless the period of revocation or suspension has been completed and the board has conducted a competency review and determined that an acceptable degree of rehabilitation has been accomplished.

Approved March 13, 2018

CHAPTER 60

(S.B. No. 1267, As Amended)

AN ACT

RELATING TO STEM EDUCATION; AMENDING CHAPTER 5, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-523, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING A STEM DIPLOMA; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 5, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-523, Idaho Code, and to read as follows:

33-523. STEM DIPLOMA. (1) For purposes of this section, "STEM" means science, technology, engineering and mathematics.

(2) A public school student who successfully completes all graduation requirements established by the state board of education may receive a high school diploma designated as a STEM diploma if the student earned at least:

(a) Eight (8) credits in mathematics;

(b) Eight (8) credits in science; and

(c) In addition to the credits listed in paragraphs (a) and (b) of this subsection, five (5) credits in the student's choice of any or all subjects of science, technology, engineering or mathematics.

(3) This section does not require a student to complete more than the total credits required to graduate as determined by the state board of education.

(4) A student who has completed eight (8) or more credits in mathematics that include algebra II or a higher-level mathematics class before the student's senior year is not required to take a mathematics class in the student's senior year.

(5) Each school district and public charter school may create a diploma with a special STEM designation for students who meet the requirements of this section.

(6) The state board of education may promulgate rules necessary to implement the provisions of this section.

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

Approved March 13, 2018

CHAPTER 61
(S.B. No. 1219)

AN ACT

RELATING TO HEALTH INSURANCE; AMENDING SECTION 41-4102, IDAHO CODE, TO PROVIDE A DEFINITION; AMENDING SECTION 41-4104, IDAHO CODE, TO PROVIDE AN EXCEPTION; AND AMENDING SECTION 41-4110, IDAHO CODE, TO PROVIDE FOR A CERTAIN WAIVER AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 41-4102, Idaho Code, be, and the same is hereby amended to read as follows:

41-4102. DEFINITIONS. As used in this chapter:

(1) "Administrator" means a person, other than a board member, employed by the board to administer a joint public agency self-funded plan.

(2) "Beneficiary" means any individual entitled, under the joint public agency self-funded plan, to payment by the trust fund of any part of all of the cost of any health care service rendered to him.

(3) "Board of trustees" or "board" is the board of trustees of the trust fund.

(4) "Contribution" means the amount paid or payable by the employer or employee into the trust fund.

(5) "Director" means the director of the department of insurance of this state.

(6) "Joint powers agreement" means an agreement entered into between public agencies pursuant to chapter 23, title 67, Idaho Code.

(7) "Joint public agency self-funded plan" or "self-funded plan" or "plan" means any public agency plan established by a joint powers agreement and under which payment for any disability benefits not otherwise provided for under title 72, Idaho Code (worker's compensation and related laws -- industrial commission), medical, surgical, hospital, and other services for prevention, diagnosis, or treatment of any disease, injury, or bodily condition of an employee is, or is to be, regularly provided for or promised from funds created or maintained in whole or in part by contributions or payments thereto by a public agency employer, or by a public agency employer and the employees of the public agency, and not otherwise covered by insurance or contract with a health care service corporation, health maintenance organization, or similar other third party prepayment plan.

(8) "Person" means any individual, corporation, association, firm, syndicate, organization or other entity.

(9) "Public agency" means any city, county or political subdivision of this state, including, but not limited to: counties; school districts; highway districts; port authorities; instrumentalities of counties, county hospitals, cities or any political subdivision created under the laws of the state of Idaho; and the state of Idaho and any agency of the state government. "Public agency" also means any group of more than one (1) of the above public

agencies acting together pursuant to a joint powers agreement in accordance with chapter 23, title 67, Idaho Code.

(10) "Surplus" means the excess of the assets of a self-funded plan minus the liabilities of the plan, provided the liabilities of a self-funded plan shall include the claims liability of the plan.

(11) "Trust fund" means a fund established under a joint public agency self-funded plan for receipt of contributions of employers and employees and payment of or with respect to health care service costs of beneficiaries.

SECTION 2. That Section 41-4104, Idaho Code, be, and the same is hereby amended to read as follows:

41-4104. QUALIFICATIONS FOR REGISTRATION. No joint public agency self-funded plan shall register, and the director shall not register a joint public agency self-funded plan, which is not qualified as provided in this section.

(1) The joint powers agreement must require all contributions to be paid in advance and to be deposited in and disbursed from a trust fund duly created and existing under an adequate written irrevocable trust agreement between the employer or employers and the board.

(2) The plan must:

(a) Have, or provide for, a board of trustees in accordance with this chapter for the administration of the plan;

(b) Require that all members of the joint powers agreement comply with the provisions of the joint powers agreement;

(c) Provide that the administrator or board on behalf of the plan, as the case may be, shall furnish to each employee-beneficiary of the plan a written statement or schedule adequately and clearly stating all benefits currently allowable under the plan, together with all applicable restrictions, limitations, and exclusions, and the procedure for filing a claim for benefits; and

(d) Otherwise be in compliance with the provisions of this chapter.

(3) The allocated trust fund must be actuarially sound; that is, assets and income of the fund must be adequate under reasonable estimates for payment of all benefits promised to beneficiaries by the plan. In determining actuarial soundness the director shall also give due consideration to:

(a) Applicable stop-loss insurance provided or to be provided the plan by an insurer duly authorized to transact disability insurance in this state;

(b) Contracts with health care service corporations or health maintenance organizations authorized to conduct such operations in this state and covering certain of the promised benefits;

(c) Other applicable insurance or guarantys; and

(d) The nature of the participating entities and other plan factors or provisions for prevention or reduction of adverse selection against the plan by those otherwise eligible to become beneficiaries.

(4) The plan shall maintain aggregate stop-loss coverage and specific stop-loss coverage provided by an insurance company authorized to transact insurance in this state in accordance with the annual actuarial opinion of the plan, unless waived pursuant to section 41-4110 (3), Idaho Code.

SECTION 3. That Section 41-4110, Idaho Code, be, and the same is hereby amended to read as follows:

41-4110. RESERVES. (1) A joint public agency self-funded plan shall establish and maintain in its trust fund the following reserves:

(a) A reserve in an amount as certified by a member of the American academy of actuaries as being necessary for payment of claims against the trust fund for benefits, including both claims reported and not yet

paid and claims incurred but not yet reported. Any joint public agency self-funded plan in existence as of July 1, 2006, shall also have three (3) years from the effective date of this act to fund the applicable reserves.

(b) If under the plan periodic contributions of either the employer or employees to the trust fund are payable less frequently than monthly, there shall be a reserve for unearned contributions as computed pro rata on the basis of the unexpired portion of the period for which the contribution has been paid.

(2) In any determination of the financial condition of the trust fund, the claims reserve and reserve for unearned contributions shall constitute liabilities.

(3) Upon request of a plan, the director shall have the authority to annually waive the requirement that the plan maintain aggregate stop-loss coverage if:

(a) The joint public agency self-funded plan established by a joint powers agreement is governed by a board of trustees and is operating as a public agency;

(b) Enrollment under the plan averages a minimum of one thousand (1,000) covered persons in each of the preceding twelve (12) months;

(c) The plan establishes and maintains, in its trust fund, reserves as set forth in subsection (1) (a) of this section; and

(d) The plan establishes and maintains, in its trust fund, surplus of at least the amount certified annually by a member of the American academy of actuaries as sufficient without aggregate stop-loss coverage, but no less than three (3) months of contributions.

Approved March 13, 2018

CHAPTER 62
(S.B. No. 1261)

AN ACT

RELATING TO PRIEST LAKE; AMENDING SECTION 70-507, IDAHO CODE, TO PROVIDE THAT THE PRIEST LAKE OUTLET CONTROL STRUCTURE SHALL BE UNDER THE SUPERVISION AND CONTROL OF THE IDAHO WATER RESOURCE BOARD, TO REVISE PROVISIONS RELATING TO THE OPERATION AND MAINTENANCE OF THE STRUCTURE, TO REVISE PROVISIONS REGARDING THE MAINTENANCE AND REGULATION OF THE WATER SURFACE LEVEL OF PRIEST LAKE, AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 70-507, Idaho Code, be, and the same is hereby amended to read as follows:

70-507. ~~DIRECTOR OF THE DEPARTMENT OF WATER ADMINISTRATION~~ IDAHO WATER RESOURCE BOARD TO HAVE SUPERVISION AND CONTROL. The Priest Lake outlet control structure shall, when constructed, be under the supervision and control of the ~~director of the department of water administration, who Idaho water resource board, which may enter into contracts for a period of one (1) year or more with persons or corporations, by him deemed qualified, by the board to operate and maintain, at their sole expense,~~ said outlet control structure or any other control structure erected as a replacement thereof; provided, however, that under no circumstances shall the water surface level of Priest Lake be maintained or regulated by said ~~director of the department of water administration board~~ above 3.05 feet on the present United States Geological Survey Priest Lake outlet gage with gage datum of 2434.64 feet above mean sea level, datum of 1929, supplementary adjustment of 1947, or re-

leased below 0.1 feet on said gage; provided further, that the water surface level of Priest Lake shall be maintained at 3.0 feet during the recreation season when the water supply to Priest Lake is plentiful, meaning normal to wet years, and between 3.0 feet and 3.5 feet during the recreation season when the water supply to Priest Lake is lacking, meaning dry and marginally dry years, on the United States Geological Survey Priest Lake outlet gage, from and after the time each year following the ~~run-off~~ runoff of accumulated winter snows, when the surface level of the waters of Priest Lake has receded to such elevation, until the time after the close of the main recreational season, as determined by said ~~director of the department of water administration board~~, that said lake waters may be released and the surface level permitted to recede below said elevation 3.0.

Approved March 13, 2018

CHAPTER 63
(S.B. No. 1260)

AN ACT

RELATING TO THE LAKE PEND OREILLE, PEND OREILLE RIVER, PRIEST LAKE AND PRIEST RIVER COMMISSION; AMENDING SECTION 39-8503, IDAHO CODE, TO REVISE THE AUTHORITY PROVISIONS OF THE COMMISSION AND TO PROVIDE THAT THE COMMISSION SHALL HAVE THE AUTHORITY TO DESIGNATE REPRESENTATIVES TO PARTICIPATE IN PROCEEDINGS REGARDING THE COLUMBIA RIVER BASIN; AMENDING SECTION 39-8504, IDAHO CODE, TO PROVIDE THAT MONEYS IN THE LAKE PEND OREILLE, PEND OREILLE RIVER, PRIEST LAKE AND PRIEST RIVER COMMISSION FUND MAY ALSO BE USED TO PROVIDE FOR PARTICIPATION IN PROCEEDINGS REGARDING THE COLUMBIA RIVER BASIN; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 39-8503, Idaho Code, be, and the same is hereby amended to read as follows:

39-8503. DUTIES OF THE COMMISSION. (1) The Lake Pend Oreille, Pend Oreille River, Priest Lake and Priest River commission shall have:

(a) ~~the~~ the duty to study, investigate and select ways and means of controlling the water quality and water quantity as they relate to waters of Lake Pend Oreille, Pend Oreille River, Priest Lake and Priest River for the communities' interests and interests of the state of Idaho and for the survival of the native species of fish contiguous to the Pend Oreille Priest Basin. Those species are bull trout, westslope cutthroat, mountain white fish, pike minnow and the forage base for bull trout and kokanee salmon. ~~The commission shall have;~~

(b) ~~the~~ the authority to study, investigate, develop and select strategies with the department of water resources, the department of environmental quality, the department of fish and game, the department of lands, the United States fish and wildlife service, and the U.S. army corps of engineers for the preservation of the said species of native fish, scenic beauty, health, recreation, transportation and commercial purposes necessary and desirable for all the inhabitants of the state. ~~The commission shall also have;~~

(c) ~~the~~ the authority to receive and direct any mitigation moneys into the Lake Pend Oreille, Pend Oreille River, Priest Lake and Priest River commission fund created in section 39-8504, Idaho Code; and

(d) The authority to designate one (1) or more representatives to participate in proceedings relating to the Columbia River Basin, including but not limited to those of the Albeni Falls mitigation work group,

the technical management team and other proceedings regarding federal Columbia River power system operations, the Columbia River treaty, and the Idaho invasive species council.

(2) Nothing in this section shall be construed to authorize the commission to establish or require minimum stream flows or lake levels, which may only be established under the provisions of chapter 15, title 42, Idaho Code.

SECTION 2. That Section 39-8504, Idaho Code, be, and the same is hereby amended to read as follows:

39-8504. LAKE PEND OREILLE, PEND OREILLE RIVER, PRIEST LAKE AND PRIEST RIVER COMMISSION FUND ESTABLISHED. There is hereby created in the state treasury the Lake Pend Oreille, Pend Oreille River, Priest Lake and Priest River commission fund. Moneys in the fund may consist of appropriations, federal funds, mitigation moneys, donations or moneys of any source. Moneys in the fund may be dispersed for necessary corrective actions to complete the corrective measures as they pertain to duties of the commission created under this chapter. The release of any mitigation funds from the fund shall be authorized by the state board of examiners. Moneys in the fund may also be used to pay the administrative costs of the commission and to provide for participation in proceedings relating to the Columbia River Basin, as authorized under the provisions of section 39-8503, 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 13, 2018

CHAPTER 64
(S.B. No. 1315)

AN ACT

RELATING TO THE APPROPRIATION TO THE LAVA HOT SPRINGS FOUNDATION FOR FISCAL YEAR 2018; APPROPRIATING ADDITIONAL MONEYS TO THE LAVA HOT SPRINGS FOUNDATION FOR FISCAL YEAR 2018; 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 155, Laws of 2017, and any other appropriation provided for by law, there is hereby appropriated to the Lava Hot Springs Foundation \$25,000 from the Lava Hot Springs Foundation Fund to be expended for operating expenditures for the period July 1, 2017, through June 30, 2018.

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

Approved March 13, 2018

CHAPTER 65
(S.B. No. 1213)

AN ACT

RELATING TO THE ENDOWMENT FUND INVESTMENT BOARD; AMENDING SECTION 57-719, IDAHO CODE, TO REVISE COMPENSATION PROVISIONS REGARDING BOARD MEMBERS.

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

SECTION 1. That Section 57-719, Idaho Code, be, and the same is hereby amended to read as follows:

57-719. BOARD -- APPOINTMENT OF MEMBERS -- TERM -- REMOVAL -- VACANCIES -- ORGANIZATION -- QUORUM -- MEETINGS -- COMPENSATION. The members of the board appointed by the governor shall serve for terms of four (4) years, provided that for the first term the governor shall appoint three (3) members who shall serve for a term of two (2) years, two (2) members who shall serve for a term of three (3) years, and two (2) members who shall serve for a term of four (4) years. Members of the board shall serve until their successors have been selected and qualified.

A member of the board appointed by the governor shall not hold an office, position, or employment in a political party, with the exception of those members from the house of representatives and the senate. An appointed member may be removed from the board for cause by a two-thirds (2/3) vote of the full board.

A vacancy in the appointive membership of the board during a term thereof shall be filled by appointment by the governor for the unexpired term.

There shall be a chairman of the board elected by a majority of the members of the board. A majority of the members of the board shall constitute a quorum for the transaction of business.

The meetings of the board shall be held at least quarterly and at other times upon the call of the chairman or a majority of the board. The board members appointed hereunder shall be compensated as provided by section 59-509 (np), Idaho Code.

Approved March 13, 2018

CHAPTER 66
(S.B. No. 1214)

AN ACT

RELATING TO STATE VETERANS CEMETERIES; AMENDING SECTION 54-1144, IDAHO CODE, TO REVISE LANGUAGE REGARDING STATE VETERANS CEMETERIES; AMENDING SECTION 65-108, IDAHO CODE, TO REVISE LANGUAGE REGARDING STATE VETERANS CEMETERIES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 65-202, IDAHO CODE, TO REVISE LANGUAGE REGARDING STATE VETERANS CEMETERIES; AND AMENDING SECTION 65-204, IDAHO CODE, TO REVISE LANGUAGE REGARDING STATE VETERANS CEMETERIES.

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

SECTION 1. That Section 54-1144, Idaho Code, be, and the same is hereby amended to read as follows:

54-1144. UNCLAIMED REMAINS OF VETERANS. (1) The division of veterans services may assume control over the cremated remains of a deceased person if:

- (a) The decedent's remains have not been disposed of pursuant to a pre-arranged funeral plan as set forth in section 54-1139, Idaho Code;
- (b) The persons vested with the right to control the disposition of the remains of a deceased person pursuant to section 54-1142, Idaho Code, have not made final arrangements for the disposition of the remains within one (1) year following the deceased person's death or have not exercised control over those remains for a period of one (1) year; and
- (c) The division of veterans services certifies that the deceased person is eligible for interment at the a state veterans cemetery as an armed forces member pursuant to the rules of the state veterans cemetery.

(2) An Idaho chapter of a nationally chartered veterans services organization may assume control over the cremated remains of a deceased person if:

- (a) The decedent's remains have not been disposed of pursuant to a pre-arranged funeral plan as set forth in section 54-1139, Idaho Code;
- (b) The persons vested with the right to control the disposition of the remains of a deceased person pursuant to section 54-1142, Idaho Code, have not made final arrangements for the disposition of the remains within one (1) year following the deceased person's death or have not exercised control over those remains for a period of one (1) year; and
- (c) The Idaho chapter of a nationally chartered veterans services organization certifies that:

- (i) The deceased person is an armed forces member as defined in the rules of the a state veterans cemetery;
- (ii) The Idaho chapter of a nationally chartered veterans services organization shall be solely responsible for the costs of interment, including the application for and receipt of any available governmental benefits.

(3) There shall be no liability of a funeral establishment, mortuary, cemetery, crematory, or a related entity, a licensed mortician, or licensed funeral director, or any employee or agent thereof who transfers the cremated remains of a deceased person to the division of veterans services or an Idaho chapter of a nationally chartered veterans services organization pursuant to the provisions of this section.

(4) There shall be no liability of the state of Idaho or any employee or agent thereof related to the transfer of the cremated remains of a deceased person to an Idaho chapter of a nationally chartered veterans services organization or the interment of such remains pursuant to the provisions of this section.

SECTION 2. That Section 65-108, Idaho Code, be, and the same is hereby amended to read as follows:

65-108. IDAHO STATE VETERANS CEMETERIES. The operation, management and control, maintenance and improvement of the lands and property belonging to the state of Idaho or acquired by the state of Idaho, for a state veterans cemetery is hereby vested in the division of veterans services. Title to real property belonging to the state of Idaho for a veterans cemetery shall be vested in the state board of land commissioners. The state board of land commissioners may purchase, receive by donation or in any manner acquire real property on behalf of the state of Idaho for a veterans cemetery, within the limit of funds available ~~therefore~~ therefor. ~~The A~~ state veterans cemetery shall not be subject to local land use planning ordinances established pursuant to chapter 65, title 67, Idaho Code.

SECTION 3. That Section 65-202, Idaho Code, be, and the same is hereby amended to read as follows:

65-202. POWERS AND DUTIES. The administrator of the division of veterans services shall have full power and authority on behalf of the state of Idaho, in recognition of the services rendered by veterans of the armed forces of the United States, to:

(1) Oversee the management and operation of the veterans homes in the state and ~~the state veterans cemeteryies~~, and provide care to veterans of the armed forces of the United States under such rules as the administrator may, from time to time, adopt.

(2) Extend financial relief and assistance to disabled or destitute wartime veterans and to those dependent upon such disabled or destitute wartime veterans as the commission shall determine to be reasonably required under such rules as the administrator may, from time to time, adopt.

(3) Collect benefits paid by the United States department of veterans affairs for burial and plot allowance for persons interred at ~~the a~~ state veterans cemetery.

(4) Prescribe, with the approval of the commission, the qualifications of all personnel in accordance with the Idaho personnel system law. The administrators in charge of state veterans homes, the office of veterans advocacy, ~~and the state veterans cemeteryies~~, shall be considered nonclassified exempt employees pursuant to the provisions of chapter 53, title 67, Idaho Code, and shall serve at the pleasure of the administrator of the division of veterans services.

(5) Accept gifts, grants, contributions and bequests of funds, and personal property to the state of Idaho for the benefit of veterans of the armed forces of the United States.

(6) Enter into contracts, within the limit of funds available therefor, acquire services and personal property, and do and perform any acts that may be necessary in the administration of services to veterans of the armed forces of the United States.

(7) Administer, with the advice and approval of the commission, monies in the veterans cemetery maintenance fund established in section 65-107, Idaho Code.

(8) Establish by rule charges related to interment, disinterment and reinterment in ~~the a~~ state veterans cemetery and the administrator is hereby directed to cause such charges to be deposited in the veterans cemetery maintenance fund established in section 65-107, Idaho Code.

(9) In his discretion, assume control of the cremated remains of deceased persons qualified for interment in ~~the a~~ state veterans cemetery, apply for burial and plot allowance benefits paid by the United States department of veterans affairs for such deceased persons and inter in ~~the a~~ state veterans cemetery the cremated remains of deceased persons qualified for interment in ~~the a~~ state veterans cemetery.

(10) Administer programs offered by the United States department of veterans affairs for the certification and supervision of educational and training opportunities for veterans.

SECTION 4. That Section 65-204, Idaho Code, be, and the same is hereby amended to read as follows:

65-204. RULES -- EMPLOYMENT OF ASSISTANTS. The commission shall advise the administrator of the division of veterans services in the adoption of rules with respect to all matters of administration hereunder, including the establishment of standards and criteria for interment at the a state veterans cemetery, and to carry into effect the purposes of this chapter and employ such assistants as it may deem advisable. The commission is authorized to name the administrator of the division of veterans services as executive secretary.

Approved March 13, 2018

CHAPTER 67
(S.B. No. 1252)

AN ACT

RELATING TO ENGINEERS AND SURVEYORS; AMENDING SECTION 54-1212, IDAHO CODE, TO REVISE TERMINOLOGY, TO REVISE CERTAIN REQUIREMENTS FOR EXAMINATION AND LICENSURE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 54-1214, IDAHO CODE, TO REMOVE PROVISIONS REGARDING FAILED EXAMINATIONS.

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

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

54-1212. GENERAL REQUIREMENTS FOR EXAMINATION AND LICENSE. Except as herein otherwise expressly provided, no license as a professional engineer or professional land surveyor, or certification as an engineer intern or land surveyor intern, shall be issued until an applicant has successfully passed an examination given by or ~~under the supervision of~~ approved by the board, nor shall a license as a professional engineer or professional land surveyor, or certification as an engineer intern or land surveyor intern, be issued to an applicant having habits or character that would justify revocation or suspension of his license or certificate, as provided in section 54-1220, Idaho Code. Except for military personnel stationed in the state of Idaho on military orders and except for persons employed full-time in the state of Idaho, only residents of the state of Idaho and students enrolled at an Idaho university or college may qualify ~~for assignment to examinations~~ for initial licensure. The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for certification as an intern or ~~assignment to licensure as a professional engineering engineer~~ or professional land surveying examination surveyor:

(1) As a professional engineer:

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

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

(2) As a professional land surveyor:

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

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

(3) As an engineer intern:

(a) Passage of an examination on the fundamentals of engineering and graduation from an approved engineering program of four (4) years or more in a school or college approved by the board as being of satisfactory standing and indicating that the applicant is competent to enroll as an engineer intern;

(b) Passage of an examination on the fundamentals of engineering and graduation with a bachelor's degree in a related science from a school or college approved by the board, and evidence satisfactory to the board that the applicant possesses knowledge and skill approximating that attained through graduation from an approved four (4) year engineering program, and indicating that the applicant is competent to be enrolled as an engineer intern; or

(c) Passage of an examination on the fundamentals of engineering and graduation with an engineering master's or doctoral degree approved by the board, evidence satisfactory to the board that the applicant possesses knowledge and skill approximating that attained through graduation from an approved four (4) year engineering program, and indicating that the applicant is competent to be enrolled as an engineer intern.

(d) In the event the applicant passes the examination prior to graduation under the provisions of paragraph (a), (b) or (c) of this subsection, a certificate will be issued only after the applicant graduates.

(4) As a land surveyor intern:

(a) Passage of an examination on the fundamentals of surveying and graduation from an approved surveying program of four (4) years or more in a school or college approved by the board as being of satisfactory standing and indicating that the applicant is competent to be enrolled as a land surveyor intern; or

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

(c) In the event the applicant passes the examination prior to graduation from college under the provisions of paragraph (a) or (b) of this subsection, a certificate shall be issued only after the applicant graduates.

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

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

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

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

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

SECTION 2. That Section 54-1214, Idaho Code, be, and the same is hereby amended to read as follows:

54-1214. EXAMINATIONS. (1) Examinations will be held at such times and places as the board directs. The board shall determine the acceptable grade on examinations.

(2) Written professional examinations may be taken only after the applicant has met the other minimum requirements as given in section 54-1212, Idaho Code. The following examinations shall be offered:

(a) Fundamentals of Engineering -- The examination consists of a test on the fundamentals of engineering acceptable to the board. Passing this examination qualifies the examinee for an engineer intern cer-

tificate, provided he has met all other requirements of certification required by this chapter.

(b) Principles and Practice of Engineering -- The professional engineering examination consists of a test on applied engineering acceptable to the board. Passing this examination qualifies the examinee for licensure as a professional engineer, provided he has met the other requirements for licensure required by this chapter.

(c) Fundamentals of Surveying -- The examination consists of a test on the fundamentals of surveying acceptable to the board. Passing this examination qualifies the examinee for a land surveyor intern certificate, provided he has met all other requirements for certification required by this chapter.

(d) Principles and Practice of Surveying -- The professional surveying examination consists of a test on applied surveying acceptable to the board. Passing this examination qualifies the examinee for licensure as a professional land surveyor, provided he has met the other requirements for licensure required by this chapter.

(3) A candidate failing all or part of a professional examination may request reexamination, which may be granted upon payment of a separate examination fee paid by the applicant directly to the entity designated by the board. ~~In the event of a second failure, the examinee shall be required to obtain a minimum of one (1) additional year of experience, acceptable to the board, from the date of the second examination failure, and submit evidence of having completed an additional eight (8) semester credits of college level academic education relating to the examination that may include a professional engineering or professional surveying review course, before the board will consider that he has acquired the necessary additional knowledge to warrant assignment to a third examination. In the event of a third or subsequent failure, the examinee shall be required to obtain a minimum of three (3) additional years of experience, acceptable to the board, from the date of the third or subsequent examination failure, and submit evidence of having completed an additional twelve (12) semester credits of college level academic education relating to the examination that may include a second professional engineering or professional surveying review course, before the board will consider that he has acquired the necessary additional knowledge to warrant assignment to a subsequent examination. The separate application and examination fees shall be as set forth herein.~~

(4) The board may prepare and adopt specifications for the examinations in engineering and land surveying.

(5) The board may issue a restricted license to engineering faculty with an earned doctorate degree. The license shall be restricted to those licensees remaining employed by a college or university in this state and teaching upper division engineering courses. The board may waive technical examinations for such licenses in lieu of other requirements prescribed by rule. As used in this section, "restricted license" means a license to teach college or university upper division courses with an earned doctorate but without passing a technical examination.

Approved March 13, 2018

CHAPTER 68
(S.B. No. 1234)

AN ACT

RELATING TO THE IDAHO STATE TAX COMMISSION; AMENDING CHAPTER 1, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-103A, IDAHO CODE, TO PROVIDE THAT THE IDAHO STATE TAX COMMISSION SHALL REQUIRE A CRIMINAL BACKGROUND CHECK FOR EMPLOYEES, EMPLOYMENT APPLICANTS, CONTRACTORS AND SUBCONTRACTORS WHO WOULD HAVE ACCESS TO FEDERAL TAX INFORMATION.

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

SECTION 1. That Chapter 1, 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 63-103A, Idaho Code, and to read as follows:

63-103A. DETERMINING THE SUITABILITY OF EMPLOYEES, APPLICANTS AND PROSPECTIVE CONTRACTORS FOR EMPLOYMENT AND ACCESS TO FEDERAL TAX INFORMATION. (1) To determine the suitability of prospective employees and contractors for the Idaho state tax commission, the human resources office of the commission shall require an applicant to provide information and fingerprints necessary to obtain criminal conviction history information from the Idaho state police and the federal bureau of investigation. Pursuant to section 67-3008, Idaho Code, and Public Law 92-544, the commission's human resources officer shall submit a set of fingerprints obtained from the employee, prospective contractor, subcontractor or applicant for employment who will have access to federal tax information as defined in internal revenue service publication 1075 (2016) and the required fees to the Idaho state police, bureau of criminal identification, for a criminal records check of state and national databases. The submission of fingerprints and information required by this section shall be on forms prescribed by the Idaho state police.

(2) The human resources office of the Idaho state tax commission is authorized to receive criminal history information from the Idaho state police and from the federal bureau of investigation for the purpose of evaluating the fitness of applicants to the Idaho state tax commission. As provided by state and federal law, further dissemination or other use of the criminal history information is prohibited. Criminal background reports received from the Idaho state police and the federal bureau of investigation shall be handled and disposed of in a manner consistent with requirements imposed by the Idaho state police and the federal bureau of investigation.

(3) The human resources office of the Idaho state tax commission shall review the information received from the criminal history and background check and determine whether the applicant or employee has a criminal or other relevant record that would disqualify the individual from employment. The applicant or employee shall be provided an opportunity for a formal review of a denial. In the case of a contractor or subcontractor, the human resources officer shall communicate clearance or denial to the applicant and the applicant's employer.

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

(5) The Idaho state tax commission shall promulgate such rules as are necessary to carry out the provisions of this section.

Approved March 13, 2018

CHAPTER 69
(S.B. No. 1231)

AN ACT

RELATING TO PROPERTY TAXES; AMENDING SECTION 63-903, IDAHO CODE, TO PROVIDE FOR THE ASSESSMENT OF LATE CHARGES AND INTEREST ON DELINQUENT PROPERTY TAX PAYMENTS FOR PROPERTY ON THE SUBSEQUENT OR MISSED PROPERTY ROLL AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 63-903, Idaho Code, be, and the same is hereby amended to read as follows:

63-903. WHEN PAYABLE. (1) All property taxes extended on the property and operating property rolls shall be due and payable in full to the tax collector without late charges and interest on or before December 20 of the year in which the property taxes are levied. The property taxes may be paid in full or paid in two (2) halves, the first half on or before December 20 with a grace period extending to June 20 for the second half if the first half is totally paid.

(2) Any portion of a property tax may be paid at any time, but nothing in this section shall excuse costs, interest or late charges pursuant to section 63-1002, Idaho Code.

(3) If the first one-half (1/2) is not totally paid on or before December 20, late charges as defined in section 63-201, Idaho Code, and interest as defined provided in section 63-1001, Idaho Code, shall be assessed. If the first one-half (1/2) of the property tax has been paid in part, late charges and interest shall be calculated on the remaining first half tax due.

(4) If the second one-half (1/2) is not totally paid on or before June 20, late charges as defined in section 63-201, Idaho Code, and interest as defined provided in section 63-1001, Idaho Code, shall be assessed. If the second one-half (1/2) has been paid in part, late charges and interest shall be calculated on the remaining property tax due.

(5) Property taxes on the subsequent or missed property roll shall be billed within thirty (30) days after delivery of the property roll to the county tax collector or as otherwise provided ~~for~~. The tax collector shall notify the property owner of the property taxes due without delay after delivery of the property roll. Delinquency occurs if the tax remains unpaid thirty (30) days after the bills are mailed. Late charges as defined in section 63-201, Idaho Code, and interest as provided in section 63-1001, Idaho Code, shall be assessed in the same manner as all other property taxes.

(6) All property taxes and fees, together with any costs, late charges and interest collected by the county tax collector shall be remitted to the county auditor as provided in section 63-1201, Idaho Code.

(7) Payment of any current property taxes shall not invalidate any proceeding in the collection of a delinquency.

Approved March 13, 2018

CHAPTER 70
(S.B. No. 1230)

AN ACT

RELATING TO PROPERTY TAXES; AMENDING SECTION 63-1002, IDAHO CODE, TO CLARIFY THAT PAYMENT OF CERTAIN DELINQUENT PROPERTY TAXES SHALL ONLY BE PAID AND ACCEPTED UPON THE OLDEST DELINQUENCY IN THE COUNTY RECORDS.

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

SECTION 1. That Section 63-1002, Idaho Code, be, and the same is hereby amended to read as follows:

63-1002. PAYMENT OF DELINQUENCY -- ORDER -- RECEIPT. (1) Whenever a delinquency exists for any year, the taxpayer may pay to the tax collector any part of such delinquency together with the costs, late charges and interest. Costs include certified mailings, title searches, advertising and all other expenses for the processing and collection of the delinquency. Provided however, that any delinquency shall be applied to costs, collection costs, special assessments, charges, fees, interest, late charges and property tax in the proportion each bears to the total amount due. Payment applied to the property tax shall be posted directly to the roll.

(2) Payment ~~may~~ shall only be paid and accepted upon the oldest delinquency standing on the records of the county tax collector wherein such payment is made unless otherwise authorized by a judicial action. The second one-half (1/2) shall not be considered current if the first one-half (1/2) is delinquent.

(3) Upon payment of a delinquency, the tax collector shall issue to the taxpayer a receipt, if requested by the taxpayer. In the event payment is mailed to the tax collector, the cancelled check may serve as the receipt. Payment of current taxes shall not invalidate any proceeding in the collection of a delinquency.

Approved March 13, 2018

CHAPTER 71
(S.B. No. 1226)

AN ACT

RELATING TO THE DEPARTMENT OF COMMERCE; AMENDING SECTION 67-4711, IDAHO CODE, TO REVISE DEFINITIONS.

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

SECTION 1. That Section 67-4711, Idaho Code, be, and the same is hereby amended to read as follows:

67-4711. DEFINITIONS. As used in sections 67-4710 through 67-4719, Idaho Code, unless the context requires otherwise:

(1) "Act" means sections 67-4710 through 67-4719, Idaho Code.

(2) "Campground" means any privately owned business ~~which~~ that rents areas or places used for camping or parking campers, travel trailers, motorhomes or tents.

(3) "Council" means the state of Idaho travel and convention industry council.

(4) "Department" means the department of commerce.

(5) "Hotel/~~M~~motel" means an establishment ~~which~~ that provides lodging to members of the public for a fee, and shall include condominiums, townhouses or any other establishment ~~which~~ that makes a sale as herein defined.

(6) "Planning regions" means those seven (7) districts ~~which shall be~~ designated by number and shall embrace the several counties as follows:

No. 1. The counties of Benewah, Bonner, Boundary, Kootenai and Shoshone.

No. 2. The counties of Clearwater, Idaho, Latah, Lewis and Nez Perce.

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

No. 4. The counties of Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka and Twin Falls.

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

No. 6. The counties of Clark, Jefferson, Fremont, Madison, Teton and Bonneville.

No. 7. The counties of Blaine, ~~Camas~~, Lemhi, Custer and Butte.

(7) "Sale" means the renting of a place to sleep, to an individual by a hotel, motel, or campground for a period of less than thirty-one (31) continuous days. "Sale" shall not include the renting of a place to sleep to an individual by the Idaho Ronald McDonald House.

Approved March 13, 2018

CHAPTER 72
(H.B. No. 411)

AN ACT

RELATING TO SIGN LANGUAGE INTERPRETING; AMENDING SECTION 54-2905, IDAHO CODE, TO REMOVE A REFERENCE TO A GENERAL AND PROVISIONAL LICENSE AND TO PROVIDE AN EXEMPTION FOR A PERSON WORKING IN AN IDAHO PUBLIC SCHOOL SETTING WHO ENGAGES IN THE PRACTICE OF SIGN LANGUAGE INTERPRETING AND MEETS THE REQUIREMENTS OF AND IS INTERPRETING WITHIN THE SCOPE OF THE IDAHO EDUCATIONAL INTERPRETER ACT; AND AMENDING SECTION 54-1916A, IDAHO CODE, TO REVISE A MINIMUM AGE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-2905, Idaho Code, be, and the same is hereby amended to read as follows:

54-2905. EXEMPTIONS. (1) Nothing in this chapter shall be construed to restrict:

(a) Any person licensed or regulated by the state of Idaho from engaging in the profession or practice for which he or she is licensed or regulated including, but not limited to, any certified or accredited teacher of the deaf, nurse, physician, occupational therapist, physical therapist, surgeon, or any other licensed or regulated practitioner of the healing arts;

(b) Any employee working under the direct supervision of those persons referred to in this section, as long as such employee does not hold himself or herself out as an audiologist, speech-language pathologist, speech-language pathologist aide or assistant, sign language interpreter, hearing aid dealer or fitter, or a person engaged in the practice of audiology, speech-language pathology, sign language interpreting, or hearing aid dealing and fitting; or

(c) Any person working in an Idaho public school setting who has received and holds, in good standing, a pupil personnel services cer-

tificate with a speech-language pathologist endorsement or audiologist endorsement, or any person working as a speech-language pathologist aide or speech-language pathologist assistant, as those terms are defined in section 54-2903, Idaho Code, in a public school setting under the direction and supervision of a person with such endorsement in good standing. Such persons, while practicing in the public school setting, shall be exempt from all provisions of this chapter; provided however, that any such person working in an Idaho public school setting with a pupil personnel services certificate with a speech-language pathologist endorsement or audiology endorsement, or a speech-language pathologist aide or speech-language pathologist assistant, shall be prohibited from practicing independently in a setting other than a public school unless such person is duly licensed as set forth in this chapter.

(2) Licensure shall not be required for persons pursuing a course of study leading to a degree in audiology, speech-language pathology, sign language interpreting, or hearing aid dealing and fitting at a college or university with a curriculum acceptable to the board provided that:

(a) Activities and services otherwise regulated by this chapter constitute a part of a planned course of study at that institution;

(b) Such persons are designated by a title such as "intern," "trainee," "student," or by other such title clearly indicating the status appropriate to their level of education; and

(c) Such persons work under the supervision of a person licensed by this state to practice audiology, speech-language pathology, sign language interpreting, or hearing aid dealing and fitting in accordance with administrative rules governing supervision as adopted by the board. The supervising audiologist, speech-language pathologist, sign language interpreter, or hearing aid dealer and fitter accepts full responsibility for the activities and services provided by such persons supervised.

(3) Nothing in this chapter shall restrict a person residing in another state or country and authorized to practice audiology, speech-language pathology, sign language interpreting, or hearing aid dealing or fitting in that jurisdiction, who is called in consultation by a person licensed in this state to practice audiology, speech-language pathology, sign language interpreting, or hearing aid dealing and fitting, or who for the purpose of furthering audiology, speech-language pathology, sign language interpreting, or hearing aid dealing and fitting education is invited into this state to conduct a lecture, clinic or demonstration, while engaged in activities in connection with the consultation, lecture, clinic or demonstration, as long as such person does not open an office or appoint a place to meet clients or receive calls in this state.

(4) The provisions of this chapter regarding licensure of sign language interpreters shall not apply to the following:

(a) A person holding a current ~~general license, unless the license is provisional,~~ is allowed to interpret in a preschool and/or K-12 setting pursuant to section 33-1304, Idaho Code.

(b) A person working in an Idaho public school setting who engages in the practice of sign language interpreting and meets the requirements of and is interpreting within the scope of the Idaho educational interpreter act, chapter 13, title 33, Idaho Code.

(bc) A person who is deaf or hard of hearing and does not possess interpreter certification or credentials may, at the discretion of the board by rule, perform in the role of a deaf interpreter.

(ed) A student enrolled in a sign language interpreter educational program provided by an accredited college or university performing sign language interpretation as an integral part of the student's course of study and as supervised by a licensed sign language interpreter.

(de) Individuals licensed and/or state or nationally certified as sign language interpreters in another state authorizing such individuals to practice sign language interpreting in Idaho for a period not to exceed thirty (30) days pursuant to such terms and requirements as set forth in the rules of the board.

(ef) A person providing services to the activities and services of any religious denomination or sect;

(fg) Interpreting in an inconsequential situation, which means the level of significance is such that a licensed interpreter would not be deemed necessary for effective communication during that interaction. Inconsequential situations may include, but are not limited to: ordering food at a restaurant, checking into a hotel or purchasing an item from a retailer;

(gh) A person providing services in a private, noncommercial, family event; or

(hi) Exigent emergency circumstances for temporary interpreting services until a qualified interpreter can be obtained.

(5) Interpreters and video remote interpreting services performing interpretation for the judicial department will be selected and assigned and will provide interpreting services pursuant to rules and orders promulgated by the Idaho supreme court to ensure full access to the courts and court services for all deaf and hard of hearing persons as required by the due process provisions of the United States and Idaho constitutions and the provisions of the Americans with disabilities act (ADA).

SECTION 2. That Section 54-2916A, Idaho Code, be, and the same is hereby amended to read as follows:

54-2916A. QUALIFICATIONS FOR LICENSURE -- SIGN LANGUAGE INTERPRETER. To be eligible for licensure as a sign language interpreter, the applicant shall:

(1) File a written application with the board on forms prescribed and furnished by the board. A nonrefundable application fee shall accompany the completed written application. Such fees shall be established by the administrative rules of the board and shall be in such amounts as are reasonable and necessary for the proper execution and enforcement of this chapter;

(2) Provide verification acceptable to the board of the following:

(a) Be Having attained at least ~~twenty-one (21)~~ eighteen (18) years of age;

(b) Good moral character;

(c) Never having had a license or certification revoked or otherwise sanctioned as part of disciplinary action from this or any other state;

(d) Never having been convicted, found guilty or received a withheld judgment for any felony; and

(e) Never having been found by the board to have engaged in conduct prohibited by this chapter.

The board may take into consideration the rehabilitation of the applicant and other mitigating circumstances when considering applications for licensure.

(3) Provide evidence satisfactory to the board of having successfully passed a nationally recognized competency examination approved by the board or achieved certification defined by board rule;

(4) Provide educational documentation satisfactory to the board that the applicant has successfully graduated from a four-year course at an accredited high school or the equivalent; and

(5) Provide documentation that the applicant has successfully passed an examination approved by the board.

CHAPTER 73
(H.B. No. 469)

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING SECTION 49-652, IDAHO CODE, TO REVISE PROVISIONS REGARDING SCHOOL SAFETY PATROLS.

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

SECTION 1. That Section 49-652, Idaho Code, be, and the same is hereby amended to read as follows:

49-652. SCHOOL SAFETY PATROLS -- FAILURE TO OBEY UNLAWFUL. (1) It shall be unlawful for the operator of any vehicle to fail to stop his or her vehicle when directed to do so by a member of a school safety patrol who is on duty and who is wearing the school-designated insignia of a school safety patrol member. It shall further be unlawful for the operator of any vehicle to disregard any other reasonable directions of a properly identified member of a school safety patrol while he or she is on duty.

(2) For the purposes of this section, a school safety patrol consists of one (1) or more student body members appointed by an administrative officer of a school. A school safety patrol member shall wear a badge or other appropriate insignia marked "School Patrol" while in the performance of his or her duties, and may display "STOP" or other proper traffic directional signs at school crossings or other points where school children are crossing or about to cross a public street or highway.

~~(3) A member of a school safety patrol may properly report a violation of this section to any peace officer.~~

Approved March 14, 2018

CHAPTER 74
(H.B. No. 388)

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING SECTION 49-625, IDAHO CODE, TO REVISE PROVISIONS REGARDING OPERATION OF VEHICLES ON APPROACH OF AUTHORIZED EMERGENCY OR POLICE VEHICLES.

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

SECTION 1. That Section 49-625, Idaho Code, be, and the same is hereby amended to read as follows:

49-625. OPERATION OF VEHICLES ON APPROACH OF AUTHORIZED EMERGENCY OR POLICE VEHICLES. (1) Upon the immediate approach of an authorized emergency or police vehicle making use of an audible or visible signal, meeting the requirements of section 49-623, Idaho Code, the driver of every other vehicle shall yield the right-of-way and immediately drive to a position parallel to, and as close as possible to, the nearest edge or curb on the right side of the highway ~~lawful for parking~~ and clear of any intersection, and stop and remain in that position until the authorized emergency or police vehicle has passed, except when otherwise directed by a peace officer.

(2) This section shall not operate to relieve the driver of an authorized emergency or police vehicle from the duty to drive with due regard for the safety of all persons using the highway.

Approved March 14, 2018

CHAPTER 75
(H.B. No. 549)

AN ACT

RELATING TO FISH AND GAME; AMENDING CHAPTER 5, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-506, IDAHO CODE, TO PROVIDE FOR THE SALVAGE OF CERTAIN ANIMALS UNINTENTIONALLY STRUCK AND KILLED BY A VEHICLE ON A ROADWAY, TO PROVIDE THAT CERTAIN SEVERELY INJURED ANIMALS MAY BE DISPATCHED, TO PROVIDE REPORTING REQUIREMENTS AND TO PROVIDE EXCEPTIONS TO APPLICABILITY.

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

SECTION 1. That Chapter 5, 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 36-506, Idaho Code, and to read as follows:

36-506. WILDLIFE STRUCK WITH VEHICLE -- DISPATCH -- SALVAGE. (1) In the event a person unintentionally strikes and kills a big game animal, upland game animal, upland game bird, furbearing animal, predatory wildlife or unprotected wildlife on a roadway with a vehicle, a person may salvage the animal.

(2) In the event a person unintentionally strikes a big game animal, upland game animal, upland game bird, furbearing animal, predatory wildlife or unprotected wildlife on a roadway with a vehicle, leaving the animal severely injured, a person may immediately thereafter, in a safe and humane manner, dispatch the severely injured animal and may salvage the animal.

(3) Within twenty-four (24) hours of the incident in either subsection (1) or (2) of this section, the person shall report the incident to the department of fish and game and, within seventy-two (72) hours of the incident, shall obtain a salvage permit from the department at no cost. The following wildlife must also be presented to the nearest fish and game office to satisfy mandatory check and reporting requirements: Moose, mountain goat, bighorn sheep, mountain lion, black bear, wolf, bobcat and river otter.

(4) The provisions of this section do not apply to protected nongame wildlife, threatened or endangered species, migratory birds including waterfowl, and other wildlife species not lawfully hunted or trapped.

Approved March 14, 2018

CHAPTER 76
(H.B. No. 374)

AN ACT

RELATING TO MINING; AMENDING SECTION 47-1314, IDAHO CODE, TO REVISE NOTIFICATION PROVISIONS REGARDING CERTAIN PLACER AND DREDGE EXPLORATION; AND AMENDING SECTION 47-1506, IDAHO CODE, TO REVISE NOTIFICATION PROVISIONS REGARDING CERTAIN EXPLORATION OPERATIONS TO LOCATE MINERALS, TO PROVIDE THAT NOTICES SHALL BE SUBJECT TO SPECIFIED DISCLOSURE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 47-1314, Idaho Code, be, and the same is hereby amended to read as follows:

47-1314. DISTURBED LANDS TO BE RESTORED -- NOTICE AND RESTORATION OF PLACER OR DREDGE EXPLORATION OPERATIONS. (a) Any person conducting a placer or dredge mining operation shall, within one (1) year of permanent cessation of operations as to the whole or any part of the permit area, commence restoration of disturbed lands in the permit area or in any portion thereof as to which operations are permanently ceased. In accordance with a permit approved for the operation under section 47-1317, Idaho Code, surfaces shall be returned to a contour reasonably comparable to that contour existing prior to disturbance, topsoil shall be replaced where deemed appropriate by the board, and vegetation shall be planted reasonably comparable to that vegetation existing prior to disturbance. Any disturbed natural watercourse shall be restored to a configuration and pool structure conducive to good fish and wildlife habitat and recreational use.

(b) Any person desiring to conduct placer or dredge exploration operations using motorized earth-moving equipment shall, prior to or within seven (7) days of commencing exploration, notify the director ~~by certified mail in writing~~ of the name and address of the person, and the location, anticipated size, and method of exploration. Such notice shall be subject to disclosure according to chapter 1, title 74, Idaho Code. Any placer or dredge exploration operation which causes a cumulative surface disturbance in excess of one-half (1/2) acre of land, including roads, shall be considered a placer or dredge mining operation. Lands disturbed by any placer or dredge exploration operation which causes a cumulative surface disturbance of less than one-half (1/2) acre of land, including roads, shall be restored to conditions reasonably comparable to conditions existing prior to the placer or dredge exploration operation.

SECTION 2. That Section 47-1506, Idaho Code, be, and the same is hereby amended to read as follows:

47-1506. OPERATOR -- DUTIES PRIOR TO OPERATION -- SUBMISSION OF MAPS AND PLANS. (a) Any operator desiring to conduct surface mining operations within the state of Idaho for the purpose of immediate or ultimate sale of the minerals in either the natural or processed state, shall submit to the board prior to commencing such surface mining operations a reclamation plan that contains the following:

(1) A map of the mine panel on which said operator desires to conduct surface mining operations, which sets forth with respect to said panel the following:

(i) The location of existing roads and anticipated access and main haulage roads planned to be constructed in conducting the surface mining operations.

- (ii) The approximate boundaries of the lands to be utilized in the process of surface mining operations.
 - (iii) The approximate location and, if known, the names of all streams, creeks, or bodies of water within the area where surface mining operations shall take place.
 - (iv) The name and address of the person to whom notices, orders, and other information required to be given to the operator pursuant to this chapter may be sent.
 - (v) The drainage adjacent to the area where the surface is being utilized by surface mining operations.
 - (vi) The approximate boundaries of the lands that will become affected lands as a result of surface mining operations during the year immediately following the date that a reclamation plan is approved as to said panel, together with the number of acres included within said boundaries.
 - (vii) A description of foreseeable, site-specific nonpoint sources of water quality impacts upon adjacent surface waters, and the best management practices that will be used to control such nonpoint source impacts.
 - (viii) A description of foreseeable, site-specific impacts from acid rock drainage and the best management practices that will be used to mitigate the impacts, if any, from such acid rock drainage.
- (2) Diagrams showing the planned location of pits, mineral stockpiles, overburden piles and tailings ponds on said panel.
- (3) A description of the action which said operator intends to take to comply with the provisions of this chapter as to the surface mining operations conducted on such mine panel.
- (b) (1) Any operator who is not required to submit an operating plan for a surface mining operation to an entity of the federal government shall submit to the board, as part of the reclamation plan, an operating plan with regards to that surface mining operation. The operating plan shall include:
- (1i) Maps showing the location of existing roads and anticipated access and main haulage roads planned to be constructed for surface mining operations.
 - (2ii) The boundaries and acreage of the lands to be utilized in the process of surface mining operations.
 - (3iii) Maps showing the planned location of pits, mineral stockpiles, overburden piles and tailings ponds for the surface mining operations.
 - (4iv) The location and, if known, the names of all streams, creeks, or bodies of water within the area where surface mining operations shall take place.
 - (5v) The drainage adjacent to the area where the surface is being utilized by surface mining operations.
 - (6vi) The approximate boundaries and acreage of the lands that will become affected during the first year of construction of surface mining operations.
- (7) The board shall promulgate rules or guidelines to allow the content of a nonfederal operating plan to be determined based upon the type and size of the surface mining operation.

(c) No operator who is required to submit an operating plan for a surface mining operation to an entity of the federal government shall be required to submit an operating plan to the board. This provision shall apply to all lands, regardless of surface or mineral ownership, covered by the operating plan submitted to the entity of the federal government.

(d) No operator shall commence surface mining operations on any mine panel without first having a reclamation plan approved by the state board of land commissioners.

(e) Any operator desiring to conduct exploration operations within the state of Idaho using motorized earth-moving equipment in order to locate minerals for immediate or ultimate sale in either the natural or the processed state shall notify the board by certified mail in writing prior to or as soon after beginning exploration operations as possible and in any event within seven (7) days after beginning exploration operations. The letter notice shall include the following:

- (1) The name and address of the operator;
- (2) The location of the operation and the starting date and estimated completion date;
- (3) The anticipated size of the operation, and the general method of operation.

The letter notice shall be subject to disclosure according to chapter 1, title 74, Idaho Code.

(f) Any operator desiring to operate a cyanidation facility within the state of Idaho shall submit to the board prior to the operation of such a facility a permanent closure plan that contains the following:

- (1) The name and address of the operator;
- (2) The location of the operation;
- (3) The objectives, methods and procedures the operator will use to attain permanent closure;
- (4) An estimate of the cost of attaining permanent closure as well as an estimate of the costs to achieve critical phases of the closure plan;
- (5) Any other information specified in the rules adopted to carry out the intent and purposes of this chapter.

(g) The board may require a reasonable fee for reviewing and approving a permanent closure plan. The fee may include the reasonable cost to employ a qualified independent party, acceptable to the operator and the board, to verify the accuracy of the cost estimate required in subsection (f) (4) of this section.

(h) The board shall coordinate its review of activities in the permanent closure plan under the statutory responsibility of the department of environmental quality with that department, but that coordination shall not extend the time limit in which the board must act on a plan submitted.

(i) No operator shall commence operation of a cyanidation facility without first having a permanent closure plan approved by the board.

Approved March 14, 2018

CHAPTER 77
(H.B. No. 446)

AN ACT

RELATING TO NOTARIES PUBLIC; AMENDING SECTION 51-117, IDAHO CODE, AS ENACTED BY SECTION 6, CHAPTER 192, LAWS OF 2017, TO ADD A REQUIREMENT FOR A NOTARY PUBLIC'S OFFICIAL STAMP; AMENDING SECTION 51-118, IDAHO CODE, AS ENACTED BY SECTION 7, CHAPTER 192, LAWS OF 2017, TO PROVIDE REQUIREMENTS FOR STAMPING DEVICES FOR ELECTRONIC RECORDS; AMENDING SECTION 51-121, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE APPLICATION FOR A NOTARY PUBLIC COMMISSION; AMENDING SECTION 51-123, IDAHO CODE, TO REMOVE REFERENCE TO REFUSALS TO RENEW A NOTARY PUBLIC COMMISSION; AMENDING SECTION 51-127, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 51-117, Idaho Code, as enacted by Section 6, Chapter 192, Laws of 2017, be, and the same is hereby amended to read as follows:

51-117. OFFICIAL STAMP. The official stamp of a notary public:

- (1) Must include the notary public's name, the words "Notary Public," the words "State of Idaho," and the notary's state-issued commission number;
- (2) Must include a serrated or milled-edge border in a rectangular or circular form;
- (3) May include the words "my commission expires:" followed by the notary's current commission expiration date;
- (34) Must be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated; and
- (45) May not include anything more than that which is allowed in subsections (1) and through (23) of this section.

SECTION 2. That Section 51-118, Idaho Code, as enacted by Section 7, Chapter 192, Laws of 2017, be, and the same is hereby amended to read as follows:

51-118. STAMPING DEVICE. (1) The stamping device for tangible records must be an inked stamp which that provides an image of the notary's official stamp that meets the requirements of section 51-117, Idaho Code, and that is readily visible upon copying. The stamp shall not exceed two and one-fourth (2.25) inches by one (1) inch if rectangular or one and three-fourths (1.75) inches in diameter if circular.

(2) The stamping device for electronic records must be an electronic device or process that provides an image of the notary's official stamp that meets the requirements of section 51-117, Idaho Code, and that is readily visible upon copying.

(3) A notary public is responsible for the security of the notary public's stamping device and may not allow another individual to use the device to perform a notarial act. On resignation from, or the revocation or expiration of, the notary public's commission, the notary public shall disable the stamping device by destroying, defacing, damaging, erasing or securing it against use in a manner that renders it unusable. On the death or adjudication of incompetency of a notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the stamping device shall render it unusable by destroying, defacing, damaging, erasing or securing it against use in a manner that renders it unusable.

(34) If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative or guardian shall promptly notify the commissioning officer or agency on discovering that the device is lost or stolen.

SECTION 3. That Section 51-121, Idaho Code, be, and the same is hereby amended to read as follows:

51-121. COMMISSION AS NOTARY PUBLIC -- QUALIFICATIONS -- NO IMMUNITY OR BENEFIT -- REAPPOINTMENT. (1) An individual qualified under subsection (2) of this section may apply make application to the secretary of state for a commission as a notary public. The application shall be in a form and manner prescribed by the secretary of state and shall include an oath of office to be taken by the applicant. The applicant shall comply with and provide the information required by the secretary of state and pay any application fee.

(2) An applicant for a commission as a notary public must:

(a) Be at least eighteen (18) years of age;

(b) Be a citizen or permanent legal resident of the United States;

(c) Be a resident of or have a place of employment or place of practice in this state; and

(d) Be able to read and write; ~~and~~

~~(e) Not be disqualified to receive a commission under section 51-123, Idaho Code.~~

~~(3) Before issuance of a commission as a notary public, an applicant for the commission shall execute an oath of office and submit it to the secretary of state.~~

~~(4) Before issuance of a commission as a notary public~~ At the time of submitting the application, the applicant for a commission shall submit to the secretary of state an assurance in the form of a surety bond or its functional equivalent in the amount of ten thousand dollars (\$10,000).

(a) The assurance must be issued by:

(i) A surety or other entity licensed or authorized to do business in this state; or

(ii) The risk management office in the department of administration for the state of Idaho if the applicant is regularly employed by the state and the commission is required in the scope of that employment.

(b) The assurance must cover acts performed during the term of the notary public's commission and must be in the form prescribed by the secretary of state. If a notary public violates law with respect to notaries public in this state, the surety or issuing entity is liable under the assurance. The surety or issuing entity shall give thirty (30) days' notice to the secretary of state before canceling the assurance. The surety or issuing entity shall notify the secretary of state no later than thirty (30) days after making a payment to a claimant under the assurance. A notary public may perform notarial acts in this state only during the period that a valid assurance is on file with the secretary of state.

~~(54) On compliance with this section, the secretary of state shall review and may issue a commission as a notary public to an applicant for a term of six (6) years or may deny the application pursuant to section 51-123, Idaho Code.~~

~~(65) A commission to act as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by law of this state on public officials or employees.~~

(6) A notary public may be reappointed upon submission of a new application no earlier than ninety (90) days prior to the expiration of his term.

SECTION 4. That Section 51-123, Idaho Code, be, and the same is hereby amended to read as follows:

51-123. GROUNDS TO DENY, ~~REFUSE TO RENEW~~, REVOKE, SUSPEND OR CONDITION COMMISSION OF NOTARY PUBLIC. (1) The secretary of state may deny, ~~refuse to renew~~, revoke, suspend or impose a condition on a commission as notary public for any act or omission that demonstrates the individual lacks the honesty, integrity, competence or reliability to act as a notary public, including:

- (a) Failure to comply with the provisions of this chapter;
- (b) A fraudulent, dishonest or deceitful misstatement or omission in the application for a commission as a notary public submitted to the secretary of state;
- (c) A conviction of the applicant or notary public of any felony or a crime involving fraud, dishonesty or deceit;
- (d) A finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty or deceit;
- (e) Failure by the notary public to discharge any duty required of a notary public, whether by this chapter, rules of the secretary of state or any federal or state law;
- (f) Use of false or misleading advertising or representation by the notary public representing that the notary has a duty, right or privilege that the notary does not have;
- (g) Violation by the notary public of a rule of the secretary of state regarding a notary public;
- (h) Denial, ~~refusal to renew~~, revocation, ~~or~~ suspension of, or placing a condition on, a notary public commission in another state; or
- (i) Failure of the notary public to maintain an assurance as provided in section 51-121(4), Idaho Code.

(2) If the secretary of state denies, ~~refuses to renew~~, revokes, suspends or imposes conditions on a commission as a notary public, the applicant or notary public is entitled to timely notice and hearing in accordance with chapter 52, title 67, Idaho Code.

(3) The authority of the secretary of state to deny, ~~refuse to renew~~, suspend, revoke or impose conditions on a commission as a notary public does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law.

SECTION 5. That Section 51-127, Idaho Code, be, and the same is hereby amended to read as follows:

51-127. RULES. (1) The secretary of state may adopt rules to implement this chapter. Rules adopted regarding the performance of notarial acts with respect to electronic records may not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification. The rules may include but are not limited to the following:

- (a) Prescribing the manner of performing notarial acts regarding tangible and electronic records;
- (b) Including provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident;
- (c) Including provisions to ensure integrity in the creation, transmittal, storage or authentication of electronic records or signatures;
- (d) Prescribing the process of granting, renewing, conditioning, denying, suspending or revoking a notary public commission and assuring the trustworthiness of an individual holding a commission as notary public;
- (e) Including provisions to prevent fraud or mistake in the performance of notarial acts;

(f) Establishing the process for approving and accepting surety bonds and other forms of assurance under section 51-121(4), Idaho Code; and

(g) Providing for the course of study under section 51-122, Idaho Code.

(2) In adopting, amending or repealing rules about notarial acts with respect to electronic records, the secretary of state may consider, as far as is consistent with the provisions of this chapter:

(a) The most recent standards regarding electronic records promulgated by national bodies, such as the national association of secretaries of state;

(b) Standards, practices and customs of other jurisdictions that substantially enact this chapter; and

(c) The views of governmental officials and entities and other interested persons.

SECTION 6. Sections 1 and 2 of this act shall be in full force and effect on and after October 1, 2018. Sections 3, 4 and 5 of this act shall be in full force and effect on and after July 1, 2018.

Approved March 14, 2018

CHAPTER 78
(H.B. No. 386)

AN ACT

RELATING TO COUNTY ELECTION RECORDS; AMENDING SECTION 34-217, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE RECORDS THAT SHALL BE RETAINED FOR A SPECIFIED NUMBER OF YEARS; AND AMENDING SECTION 34-416, IDAHO CODE, TO PROVIDE THAT THE STATEWIDE VOTER REGISTRATION DATABASE SHALL CONSTITUTE THE REGISTER OF ELECTORS.

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

SECTION 1. That Section 34-217, Idaho Code, be, and the same is hereby amended to read as follows:

34-217. RETENTION OF COUNTY ELECTION RECORDS. County election records shall be maintained by the county clerk for the time periods outlined in this section. Records shall be maintained for the period specified beginning with the date the record is created or has become no longer valid, whichever is greater.

(1) The following records shall be retained for not less than five (5) years:

(a) Voter registration cards for electors whose registration has been terminated;

(b) Correspondence relating to an elector's voter registration;

(c) Combination election record and poll book, including the ballot accounting page;

(ed) Declaration of candidacy and petition of candidacy forms filed with the county clerk;

(de) Maps of precinct boundaries with legal descriptions;

(ef) List of absentee voters; and

(g) County initiatives and petitions that qualify for placement on the ballot.

(2) The following shall be retained for two (2) years:

(a) ~~Correspondence relating to an elector's voter registration.~~

~~(b) Completed absentee ballot request forms;~~

(eb) Tally books;

- ~~(dc) Voted ballots-;~~
- ~~(ed) Any ballots that were required to be duplicated before being counted-;~~
- (e) Certified lists of candidates or declaration of candidacy forms from special districts used for ballot preparation; and
- (f) Certified ballot language from special districts for any question placed on the ballot.

(3) The following shall be maintained for one (1) year:

- ~~(a) Absentee ballot affidavit envelopes-;~~
- ~~(b) Notice of election-;~~
- ~~(c) Personal identification affidavit-;~~
- ~~(d) Unvoted ballots from the primary election-~~
- ~~(e) Ballot tracking logs-;~~
- ~~(fe) Automated tabulation election logs-;~~
- ~~(gf) Copy of the election definition and program used in tabulating ballots electronically and in the ballot marking device-; and~~
- ~~(hg) Record of the number of ballots printed and furnished to each polling place.~~

(4) Other election supplies including, but not limited to, unused ballots, official election ballot identification or official ballot stamps, receipts for supplies and spoiled ballots may be disposed of sixty (60) days following the deadline for requesting a recount or filing an election contest pursuant to chapters 20 and 21, title 34, Idaho Code.

SECTION 2. That Section 34-416, Idaho Code, be, and the same is hereby amended to read as follows:

34-416. REGISTRATION APPLICATIONS. (1) The registration application shall contain the following warning:

WARNING: Any elector who supplies any information, knowing it to be false, is guilty of perjury.

(2) The elector shall read the warning set forth in subsection (1) of this section and shall sign his name in an appropriate place on the completed application.

(3) The registration application completed and signed as provided in this section constitutes the official registration application of the elector. The county clerk shall keep and file all such applications in a convenient manner in his office. Such applications constitute the register of electors and shall be considered confidential and unavailable for public inspection and copying except as provided by subsection (25) of section 74-106, Idaho Code.

(4) The statewide voter registration database maintained by the secretary of state's office shall constitute the register of electors.

Approved March 14, 2018

CHAPTER 79
(H.B. No. 452)

AN ACT

RELATING TO REGULATION OF SHORT-TERM RENTALS AND VACATION RENTALS; AMENDING SECTION 67-6539, IDAHO CODE, TO REVISE PROVISIONS REGARDING HOW CITIES AND COUNTIES MAY REGULATE SHORT-TERM RENTALS OR VACATION RENTALS.

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

SECTION 1. That Section 67-6539, Idaho Code, be, and the same is hereby amended to read as follows:

67-6539. LIMITATIONS ON REGULATION OF SHORT-TERM RENTALS AND VACATION RENTALS. (1) Neither a county nor a city may enact or enforce any ordinance that has the express or practical effect of prohibiting short-term rentals or vacation rentals ~~throughout the jurisdiction of such in the~~ county or city. ~~Notwithstanding the foregoing prohibition, a~~ A county or city may implement such reasonable regulations as it deems necessary to safeguard the public health, safety and general welfare in order to protect the integrity of residential neighborhoods in which short-term rentals or vacation rentals operate. A short-term rental or vacation rental shall be classified as a residential land use for zoning purposes subject to all zoning requirements applicable thereto.

(2) Neither a county nor a city can regulate the operation of a short-term rental marketplace.

Approved March 14, 2018

CHAPTER 80
(H.B. No. 363)

AN ACT

RELATING TO FUELS TAX; AMENDING SECTION 63-2401, IDAHO CODE, TO REVISE THE DEFINITION OF "DISTRIBUTOR" AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 63-2402, IDAHO CODE, TO PROVIDE FOR THE TAXATION OF GASEOUS SPECIAL FUELS THAT ARE DELIVERED INTO A BULK FUEL TANK UPON AGREEMENT BETWEEN THE SELLER AND THE CUSTOMER.

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

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

63-2401. DEFINITIONS. In this chapter:

(1) "Aircraft engine fuel" means:

- (a) Aviation gasoline, defined as any mixture of volatile hydrocarbons used in aircraft reciprocating engines; and
- (b) Jet fuel, defined as any mixture of volatile hydrocarbons used in aircraft turbojet and turboprop engines.

(2) "Biodiesel" means any fuel that is derived in whole or in part from agricultural products or animal fats or the wastes of such products and is suitable for use as fuel in diesel engines.

(3) "Biodiesel blend" means any fuel produced by blending biodiesel with petroleum-based diesel to produce a fuel suitable for use in diesel engines.

(4) "Bond" means:

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

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

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

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

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

(7) "Distributor" means any person who receives motor fuel in this state, and includes a special fuels dealer. Any person who sells or receives gaseous special fuels will not be considered a distributor unless:

(a) ~~The~~ gaseous special fuel is delivered into the fuel supply tank or tanks of a motor vehicle not then owned or controlled by him; or

(b) The gaseous special fuel is placed in certain gaseous special fuels bulk tanks upon which the seller may charge tax as the result of an agreement with the customer.

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

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

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

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

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

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

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

(15) "International fuel tax agreement" and "IFTA" mean the international fuel tax agreement required by the intermodal surface transportation

efficiency act of 1991, Public Law 102-240, 105 Stat. 1914, and referred to in ~~title 49, U.S.C., section 31701~~, including subsequent amendments to that agreement.

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

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

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

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

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

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

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

(23) "Special fuels" means:

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

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

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

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

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

(26) "Use" means either:

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

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

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

63-2402. IMPOSITION OF TAX UPON MOTOR FUEL. (1) A tax is hereby imposed upon the distributor who receives motor fuel in this state. The legal incidence of the tax imposed under this section is borne by the distributor. The tax becomes due and payable upon receipt of the motor fuel in this state by the distributor unless such tax liability has previously accrued to another

distributor pursuant to this section. The tax shall be imposed without regard to whether use is on a governmental basis or otherwise, unless exempted by this chapter.

(2) The tax imposed in this section shall be at the rate of thirty-two cents (32¢) per gallon of motor fuel received. This tax shall be subject to the exemptions, deductions and refunds set forth in this chapter.

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

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

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

(a) Special fuels that have been dyed at a refinery or terminal under the provisions of 26 U.S.C. section 4082 and regulations adopted thereunder, or under the clean air act and regulations adopted thereunder; or

(b) Special fuels that are gaseous special fuels, as defined in section ~~63-2401~~ 63-2424, Idaho Code, except that part thereof that is delivered into the fuel supply tank or tanks of a motor vehicle or certain gaseous special fuels bulk tanks. Upon agreement with the customer, the licensed distributor may charge tax when placing gaseous special fuels into the customer's bulk tanks; or

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

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

Approved March 14, 2018

CHAPTER 81
(H.B. No. 362)

AN ACT

RELATING TO GASOLINE TAX REFUNDS; AMENDING SECTION 63-2410, IDAHO CODE, TO AUTHORIZE GREATER FLEXIBILITY IN THE TIMING OF GASOLINE TAX REFUND CLAIMS BY THOSE WHO ARE NOT REQUIRED TO FILE AN INCOME TAX RETURN AND TO MAKE TECHNICAL CORRECTIONS.

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

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

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

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

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

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

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

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

- (5) (a) All claims for refund of gasoline taxes arising under subsection (1), (2) or (3) (b) of this section may be filed separately or in

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

(b) If a claimant is not required to file an income tax return, the claimant will file claims using a ~~calendar-year~~ filing cycle on forms and in the manner as the commission may provide. The refund claim must be for taxes paid on gasoline actually purchased in the calendar year preceding the filing and the refund claim will be due ~~on or before the fifteenth day of April following the close of the calendar year~~ according to income tax payment requirements in section 63-3085, Idaho Code. Refund claims may be submitted and paid for any period not greater than one (1) year or less than one (1) month.

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

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

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

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

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

Approved March 14, 2018

CHAPTER 82
(H.B. No. 407)

AN ACT

RELATING TO GOAT ASSESSMENTS; AMENDING SECTION 25-131, IDAHO CODE, TO PROVIDE THAT GOATS MAY BE ASSESSED BY THE IDAHO SHEEP AND GOAT HEALTH BOARD ON A PER HEAD BASIS AND TO REMOVE THE CONDITION THAT SUCH ASSESSMENT BE COMPARABLE TO THE ASSESSMENT ON WOOL.

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

SECTION 1. That Section 25-131, Idaho Code, be, and the same is hereby amended to read as follows:

25-131. IDAHO SHEEP AND GOAT HEALTH ACCOUNT -- ASSESSMENT -- FIRST PURCHASER TO MAKE REPORT -- PENALTY FOR FAILURE TO MAKE REPORT -- APPROPRIATION. (1) In order for the board to carry out the provisions of this chapter, the board shall assess, levy and collect an assessment established by the board, not to exceed twelve cents (12¢) per pound on all wool, in the grease basis, sold through commercial channels, and from the effective date of this act through June 30, 2019, two cents (2¢) of the assessment shall be considered a wolf control assessment pursuant to section 22-5306, Idaho Code. In the event that a sheep, which produces wool subject to this assessment, shall be located outside the state of Idaho during a part of the assessment year, the amount of the assessment shall be reduced on a pro rata basis. Such assessment shall be levied and assessed to the producer at the time of the first sale of wool and shall be deducted by the first purchaser from the price paid to the producer at the time of such first sale. The assessment provided in this section shall not be levied or collected on any casual sale. In addition to the assessment provisions of this section related to wool, the board may by rule establish an assessment on goats that would assess goats on a per head basis and ~~at a rate that is comparable to the assessment on wool.~~

(2) The assessment provided by this section shall constitute a lien prior to all other liens and encumbrances upon such wool except liens which are declared prior by operation of a statute of this state.

(3) If the first purchaser lives or has his principal office in another state, the producer shall make the reports and pay the assessments to the board as required under this section unless the first purchaser agrees in writing to make such reports and pay such assessments.

(4) The first purchaser shall specify the amounts of assessments withheld in any written statements made to the producer.

(5) The first purchaser shall make reports to the board on forms prescribed by the board, and no first purchaser shall fail to make such reports or falsify any such reports. The assessment deducted and withheld by a first purchaser, as required in subsection (1) of this section, shall be paid to the board on a quarterly calendar year basis, and shall be due and payable within thirty (30) days after the end of the quarter. All moneys collected by the board under the provisions of this chapter shall be paid to the state treasurer. All moneys received from the assessment pursuant to this section shall be deposited in the state treasury by the state treasurer to the credit

of a special account in the state operating fund hereby created to be known as the "Idaho sheep and goat health account."

(6) A first purchaser who delays transmittal of reports and payments of assessments beyond the time stated in subsection (5) of this section shall pay five percent (5%) of the amount due for the first month of delay and one percent (1%) of the amount due for each month of delay thereafter. Such moneys shall be deposited in the Idaho sheep and goat health account.

(7) In addition thereto, the said account shall consist of any appropriations made by the legislature for the use of and expenditure by said board. All fees of every kind collected under the provisions of this chapter, or under any rules and regulations made pursuant to the provisions of this chapter, shall be deposited in the state treasury in the manner hereinabove described. The moneys in said special account are hereby appropriated for the use and expenditure of said board carrying out the provisions of this chapter and the rules and regulations made herein and said account is hereby declared to be a continuing account.

(8) All moneys appropriated to the board for the purposes of sheep disease prevention, abatement, suppression, control or eradication shall be expended by the board only for those purposes, in accordance with the duties specified in section 25-128(1), Idaho Code.

(9) All moneys received by the board from that portion of the special assessment which is made to carry on the work for prevention and control of damage caused by predatory animals and other vertebrate pests shall be expended by the board in the respective districts comprising the counties where the assessment was collected less the actual and necessary administrative costs for carrying out the provisions of this chapter. All moneys received by such account for work for prevention and control of damage caused by predatory animals and other vertebrate pests except as herein otherwise provided shall be expended by the board within the district or districts specified by the party or agency providing such funds and any trust fund must be held inviolate for the purposes of the trust.

(10) The right is reserved to the state of Idaho to audit the funds of the board at any time.

Approved March 14, 2018

CHAPTER 83
(H.B. No. 462)

AN ACT

RELATING TO FOREST LANDS TAXATION; AMENDING SECTION 63-1705, IDAHO CODE, TO PROVIDE FOR A PRODUCTIVITY CLASSIFICATION OF A FOREST LAND PARCEL TO REMAIN OR REVERT TO ITS JANUARY 1, 2016, CLASSIFICATION STATUS, TO AFFIRM TAXES DUE UNDER THE PREVIOUS CLASSIFICATION STATUS, TO AUTHORIZE THE COMMITTEE ON FOREST LAND TAXATION METHODOLOGIES TO DEVELOP A PROCESS BY WHICH A COUNTY ASSESSOR MAY SEEK TO CHANGE THE PRODUCTIVITY CLASSIFICATION OF A FOREST LAND PARCEL, TO REQUIRE RULEMAKING AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

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

63-1705. TAXATION OF FOREST LANDS UNDER THE PRODUCTIVITY OPTION. (1) In order to encourage private forest landowners to retain and improve their holdings of forest lands and to promote better forest management, forest

lands subject to this option shall be appraised, assessed and taxed as real property under the provisions of this section.

(2) The forest land value shall be determined by the timber productivity valuation process, as provided for in the committee on forest land taxation methodologies (CFTM), user's guide to the timber productivity option's valuation method - 2005 (Schlosser, January 1, 2005, Moscow, Idaho), referred to in this chapter as the "user's guide," on file with the Idaho state tax commission, available on the website of the Idaho state tax commission, and which shall be made available in the office of each county assessor, which values the net wood production over a reasonable rotation period plus other agricultural-related income, if any, less annualized custodial expenses as defined in section 63-1701, Idaho Code. Pursuant to the provisions of this section, the inventory of forest products shall not be included as part of the valuation of the forest land as provided in section 63-602W, Idaho Code. The state tax commission shall promulgate rules relating to the timber productivity valuation process, including custodial expenses, as provided for in the user's guide and the provisions of this chapter.

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

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

(4) On the effective date of this act, each forest land parcel shall remain at or revert to the productivity classification it held on January 1, 2016; however, taxes assessed prior to the effective date of this act shall be due and payable under the productivity classification in effect at the time of assessment. The CFTM shall designate a process by which county assessors may change a parcel's productivity classification. At a minimum, the process shall set forth requirements for landowner notification, inspector qualifications and document retention. The state tax commission shall promulgate rules to implement the CFTM-designated process. After legislative adoption of the rules, forest productivity classification may be subject to change pursuant to the process set forth in the rules.

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

(a) Divide the state into appropriate forest valuation zones, with each zone designated so as to recognize the uniqueness of marketing areas,

timber types, growth rates, access, operability, and other pertinent factors of that zone;

(b) Establish a uniform system of forest land classification that considers the productive capacity of the soil to grow forest products and furnish other associated agricultural uses;

(c) Provide for the annual input to the timber productivity valuation process including the stumpage value, rotation length, mean annual increment, guiding discount rate, annualized custodial expenses, appropriate property tax rates, and real price appreciation rate of stumpage according to the user's guide. The guiding discount rate and the real price appreciation rate for timber products shall remain constant at four percent (4%) and one and one-quarter percent (1.25%), respectively, until January 1, 2022;

(d) Upon the recommendation of the CFTM or when deemed appropriate by the commission according to evidence of significant trends in custodial expenses, conduct a forest management cost study; provided however, that such forest management cost study shall be no more frequent than five (5) years from the previous forest management cost study. The forest management cost study and a report shall be provided to the CFTM following a recommendation of any changes in custodial expenses and the CFTM shall determine whether the cost study will be incorporated into the forest land valuation process. The forest management cost allowance (FMCA) will continue to be calculated based on the 2004 CFTM-negotiated custodial rates and indexed by the adjustment in the ten (10) year rolling average changes in the producer price index (PPI), as has been done by the Idaho state tax commission since 2005, and this will remain in effect until January 1, 2022; and

(e) Provide for any additional data as needed.

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

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

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

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

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

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

(b) Four (4) members who are representing business entities owning no fewer than five thousand (5,000) acres of Idaho forest land, provided that there shall be only one (1) representative for each individual business entity and provided further that affiliated business entities shall be considered a single business entity for the purposes of this section. The business entity employing such member shall designate a successor member at its discretion. If a vacancy occurs among the representatives of forest landowners owning no fewer than five thousand (5,000) acres, a replacement member will be selected by the remaining members qualifying under the provisions of this section;

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

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

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

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

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

(13) The CFTM may prepare and deliver written reports to the house of representatives revenue and taxation committee and the senate local government and taxation committee of its findings and recommendations for legislation as the need may arise. The CFTM may meet periodically as determined by its chairman or the CFTM.

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

Approved March 14, 2018

CHAPTER 84
(H.B. No. 416)

AN ACT

RELATING TO THE STATE HISTORICAL SOCIETY; AMENDING SECTION 67-4121, IDAHO CODE, TO PROVIDE THAT CERTAIN ARTIFACTS, MATERIALS AND BUILDINGS ARE HELD IN TRUST FOR THE PEOPLE OF THE STATE OF IDAHO, TO PROVIDE FOR THE TREATMENT OF SUCH COLLECTIONS, TO PROVIDE THAT SUCH COLLECTIONS SHALL NOT BE CAPITALIZED, DEFINED AS FINANCIAL ASSETS OR SOLD TO FINANCE DEBT OR INFRASTRUCTURE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-4121, Idaho Code, be, and the same is hereby amended to read as follows:

67-4121. REGULATIONS -- COLLECTIONS HELD IN TRUST. (1) The board of trustees of the Idaho State Historical Society is hereby authorized and empowered to promulgate and to enforce such regulations as it may deem needful to protect the prehistoric ruins and relics and archaeological and vertebrate paleontological sites and deposits on any public land in Idaho. No person shall remove from the state of Idaho any part of any such ruins, pic-

tographs, petroglyphs, relics, deposits, objects, specimens, or artifacts recovered from any such archaeological or vertebrate paleontological site or deposit without first obtaining the consent of the board of trustees of the Idaho Sstate Hhistorical Ssociety. Said board of trustees may require, as a condition to such consent, that such portion of such relics, ruins, pictographs, petroglyphs, objects, specimens, artifacts, or deposits as said board of trustees shall require, shall become or remain the property of the state of Idaho. Nothing in this section shall be construed to interfere with the administrative management of relics, ruins, pictographs, petroglyphs, deposits, objects, specimens, or artifacts which that have been recovered from any such sites or deposits and which that are the property of any agency or institution of the government of the state of Idaho.

(2) Idaho state historical society artifacts, archival materials and historic buildings are held in trust for the people of the state of Idaho and are protected, secure, unencumbered, cared for and preserved. These collections shall not be capitalized or defined as financial assets and shall not be sold to finance debt or infrastructure.

Approved March 14, 2018

CHAPTER 85
(H.B. No. 404)

AN ACT

RELATING TO POWERS AND DUTIES OF THE CREDIT RATING ENHANCEMENT COMMITTEE; AMENDING SECTION 67-1225, IDAHO CODE, TO PROVIDE A DATE CHANGE FOR REPORTING FINDINGS AND RECOMMENDATIONS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 67-1225, Idaho Code, be, and the same is hereby amended to read as follows:

67-1225. POWERS AND DUTIES OF CREDIT RATING ENHANCEMENT COMMITTEE. The Idaho credit rating enhancement committee shall advise the governor and the legislature regarding policies and action that enhance and preserve the state's credit rating and maintain the future availability of low-cost capital financing. In carrying out this function, the committee shall report findings and recommendations to the governor and the speaker of the house of representatives and the president pro tempore of the senate by ~~August~~ December 1 of each year.

Approved March 14, 2018

CHAPTER 86
(H.B. No. 403)

AN ACT

RELATING TO THE STATE TREASURER; AMENDING SECTION 67-1210A, IDAHO CODE, TO REVISE PROVISIONS REGARDING ADDITIONAL ALLOWABLE INVESTMENTS BY THE STATE TREASURER AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. 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 or any other funds in his hands, including, but not limited to, funds 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, controlled 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 own 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.

Approved March 14, 2018

CHAPTER 87
(H.B. No. 365)

AN ACT

RELATING TO ALCOHOL; AMENDING SECTION 23-404, IDAHO CODE, TO REVISE PROVISIONS REGARDING DISTRIBUTION OF MONEYS IN THE LIQUOR ACCOUNT.

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

SECTION 1. That Section 23-404, Idaho Code, be, and the same is hereby amended to read as follows:

23-404. DISTRIBUTION OF MONEYS IN LIQUOR ACCOUNT. (1) The moneys received into the liquor account shall be transferred or appropriated as follows:

(a) An amount of money equal to the actual cost of purchase of alcoholic liquor and payment of expenses of administration and operation of the division, as determined by the director and certified quarterly to the state controller, shall be transferred back to the division; provided, that the amount so transferred back for administration and operation of the division shall not exceed the amount authorized to be expended by regular appropriation authorization.

(b) From fiscal year 2006 through fiscal year 2009, forty percent (40%) of the balance remaining after transferring the amounts authorized by paragraph (a) of this subsection shall be transferred or appropriated pursuant to this paragraph (b). Beginning in fiscal year 2010, the percentage transferred pursuant to this paragraph (b) shall increase to forty-two percent (42%) with an increase of two percent (2%) for each subsequent fiscal year thereafter until fiscal year 2014, when such percentage shall be fifty percent (50%).

(i) For fiscal year 2006 and through fiscal year 2009, one million eight hundred thousand dollars (\$1,800,000) shall be appropriated and paid to the cities and counties as set forth in paragraphs (c) (i) and (c) (ii) of this subsection;

(ii) Two million eighty thousand dollars (\$2,080,000) shall be transferred annually to the substance abuse treatment fund, that is created in section 23-408, Idaho Code;

(iii) ~~Six~~ Eight hundred thousand dollars (\$6800,000) shall be transferred annually to the state community college account, created in section 33-2139, Idaho Code;

(iv) One million two hundred thousand dollars (\$1,200,000) shall be transferred annually to the public school income fund, as defined in section 33-903, Idaho Code;

(v) Six hundred fifty thousand dollars (\$650,000) shall be transferred annually to the cooperative welfare account in the dedicated fund;

(vi) Six hundred eighty thousand dollars (\$680,000) shall be transferred annually to the drug court, mental health court and family court services fund;

(vii) Four hundred forty thousand dollars (\$440,000) shall be transferred annually to the drug and mental health court supervision fund that is created in section 23-409, Idaho Code; and

(viii) The balance shall be transferred to the general fund.

(c) The remainder of the moneys received in the liquor account shall be appropriated and paid as follows:

(i) Forty percent (40%) of the balance remaining after the transfers authorized by paragraphs (a) and (b) of this subsection have been made is hereby appropriated to and shall be paid to the several counties. Each county shall be entitled to an amount in the proportion that liquor sales through the division in that county during the state's previous fiscal year bear to total liquor sales through the division in the state during the state's previous fiscal year, except that no county shall be entitled to an amount less than that county received in distributions from the liquor account during the state's fiscal year 1981.

(ii) Sixty percent (60%) of the balance remaining after the transfers authorized by paragraphs (a) and (b) of this subsection have been made is hereby appropriated to and shall be paid to the several cities as follows:

1. Ninety percent (90%) of the amount appropriated to the cities shall be distributed to those cities that have a liquor store or distribution station located within the corporate limits of the city. Each such city shall be entitled to an amount in the proportion that liquor sales through the division in that city during the state's previous fiscal year bear to total liquor sales through the division in the state during the state's previous fiscal year, except that no city shall be entitled to an amount less than that city received in distributions from the liquor account during the state's fiscal year 1981;

2. Ten percent (10%) of the amount appropriated to the cities shall be distributed to those cities that do not have a liquor store or distribution station located within the corporate limits of the city. Each such city shall be entitled to an amount in the proportion that that city's population bears to the population of all cities in the state that do not have a liquor store or distribution station located within the corporate limits of the city, except that no city shall be entitled to an amount less than that city received in distributions from the liquor account during the state's fiscal year 1981.

(2) All transfers and distributions shall be made periodically, but not less frequently than quarterly but, the apportionments made to any county or city, that may during the succeeding three (3) year period be found to have been in error either of computation or transmittal, shall be corrected during the fiscal year of discovery by a reduction of apportionments in the case of over-apportionment or by an increase of apportionments in the case of under-apportionment. The decision of the director on entitlements of counties and cities shall be final and shall not be subject to judicial review.

Approved March 14, 2018

CHAPTER 88
(H.B. No. 409)

AN ACT

RELATING TO NURSING HOME ADMINISTRATORS; AMENDING SECTION 54-1610, IDAHO CODE, TO PROVIDE THAT A NURSING HOME ADMINISTRATOR-IN-TRAINING SHALL SERVE ONE THOUSAND HOURS UNDER THE DIRECT SUPERVISION OF A LICENSED NURSING HOME ADMINISTRATOR BEFORE BEING ELIGIBLE TO TAKE THE EXAMINATION, TO PROVIDE THAT THE TRAINING PERIOD MAY BEGIN PRIOR TO COMPLETION OF A BACCALAUREATE DEGREE AND TO PROVIDE FOR THE SUBMISSION OF REPORTS.

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

SECTION 1. That Section 54-1610, Idaho Code, be, and the same is hereby amended to read as follows:

54-1610. ADMINISTRATORS-IN-TRAINING -- EXAMINATION AFTER ONE YEAR THOUSAND HOURS -- QUARTERLY REPORTS -- EXCEPTIONS. (1) Every applicant for a nursing home administrator license who shall have otherwise qualified under the provisions of section 54-1605, Idaho Code, except as provided for in this section, shall serve for a ~~one (1) year period~~ one thousand (1,000) hours under the direct supervision of a duly licensed nursing home administrator in accordance with the rules of the board. At the expiration of the ~~one-year-in-training~~ one thousand (1,000) hour training period said, the applicant shall be eligible to take the examination.

(2) The nursing home administrator-in-training shall submit ~~quarterly~~ reports on forms provided therefor by the board.

(3) This section shall not apply to any individual who has successfully completed a course of study for a master's degree in health administration related to long-term care, or who has successfully completed a course of study for a master's degree in health administration and has one (1) year management experience in long-term care and who has been awarded such degree from an accredited institution of higher learning.

(4) Every nursing home administrator-in-training shall register the fact of such training with the board in accordance with the rules and on forms provided by the board.

(5) An applicant may begin the ~~one (1) year~~ thousand (1,000) hour training period as a nursing home administrator-in-training prior to completion of a baccalaureate degree.

Approved March 14, 2018

CHAPTER 89
(H.B. No. 454)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-3812, IDAHO CODE, TO REVISE PROVISIONS REGARDING DIVIDENDS AND OTHER DISTRIBUTIONS.

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

SECTION 1. That Section 41-3812, Idaho Code, be, and the same is hereby amended to read as follows:

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

- (a) Ten percent (10%) of the insurer's surplus regarding policyholders as of December 31 of the year immediately preceding; or
- (b) The net gain from operations of the insurer, if the insurer is a life insurer, or the net income, if the insurer is not a life insurer, not including net realized capital gains or losses, for the twelve (12) month period ending December 31 of the year immediately preceding, but shall not include pro rata distributions of any class of the insurer's own securities.

~~In determining whether a dividend or distribution is extraordinary, an insurer other than a life insurer may carry forward net income from the previous two (2) calendar years that has not already been paid out as dividends. This carryforward shall be computed by taking the net income from the second and third preceding calendar years, not including net realized capital gains or losses, less dividends paid in the second and immediate preceding calendar years. Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution that is conditional upon the director's approval, and the declaration shall confer no rights upon shareholders until the director has approved the payment of the dividend or distribution or until the director has not disapproved payment within the thirty (30) day period referred to in this subsection.~~

(2) Except as provided in this subsection, a domestic insurer shall not make any dividends except from earned surplus. A domestic insurer may declare and distribute a dividend from other than earned surplus if:

- (a) The director has given approval for the dividend prior to payment; and
- (b) Following payment of the dividend, the insurer's surplus regarding policyholders is:
 - (i) Reasonable in relation to its outstanding liabilities; and
 - (ii) Adequate to meet its financial needs.

(3) For purposes of subsection (2) of this section, "earned surplus" means unassigned funds as required to be reported on the insurer's annual statement.

(24) A domestic insurer that is a member of a holding company system shall notify the director in writing of any nonextraordinary dividends to be paid or other distributions to be made to shareholders within five (5) business days following the declaration of the dividend or distribution, and

shall notify the director in writing at least ten (10) days, commencing from the date of receipt by the director, prior to the payment of any dividends or the making of any other distribution.

Approved March 14, 2018

CHAPTER 90
(S.B. No. 1317)

AN ACT

RELATING TO THE APPROPRIATION TO THE MILITARY DIVISION FOR FISCAL YEAR 2018; APPROPRIATING ADDITIONAL MONEYS TO THE MILITARY DIVISION FOR FISCAL YEAR 2018; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 207, Laws of 2017, and any other appropriation provided for by law, there is hereby appropriated to the Military Division in the Federal/State Agreements Program \$52,000 from the General Fund to be expended for operating expenditures for the period July 1, 2017, through June 30, 2018.

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 14, 2018

CHAPTER 91
(S.B. No. 1263)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1228, IDAHO CODE, TO REVISE PROVISIONS REGARDING SEVERANCE ALLOWANCE AT RETIREMENT FOR A PUBLIC SCHOOL EMPLOYEE.

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

SECTION 1. That Section 33-1228, Idaho Code, be, and the same is hereby amended to read as follows:

33-1228. SEVERANCE ALLOWANCE AT RETIREMENT. (1) Upon separation from public school employment by retirement in accordance with chapter 13, title 59, Idaho Code, an employee's unused sick leave shall be determined based on accumulated sick leave earned subsequent to July 1, 1976, as provided by section 33-1218, Idaho Code, and shall be reported by the employer to the Idaho public employee retirement system. A sum equal to one-half (1/2) of the monetary value of such unused sick leave, calculated at the rate of pay for such employee at the time of retirement during the employee's highest year of salary used in the average monthly salary, as determined by the retirement board, shall be transferred from the sick leave account provided by subsection (3) of this section and shall be credited to such employee's retirement account. Such sums shall be used by the retirement board to continue to pay, subject to applicable federal tax limits:

(a) Premiums for the retiree and the retiree's dependents at the rate for the active employee's group health, long-term care, vision,

prescription drug and dental insurance programs as maintained by the employer for the active employees until the retiree and/or the retiree's spouse becomes eligible for medicare at which time the district shall make available a supplemental program to medicare for the eligible individual. Upon the death of the retiree, the surviving spouse's health coverage shall be available and continued under the same terms and conditions as the retiree. Coverage may be continued for the retiree's surviving dependent spouse and dependents until remarriage of the spouse or until the retiree's surviving dependent spouse is eligible for a group health program by an employer. The medicare supplement program will provide the same premium and benefits for all retirees of all the employers served by the same insurance carrier. However, a school district may make available to all retirees from that district other benefits in addition to the medicare supplement program, and the retiree or the district shall pay for such additional benefits.

(b) Premiums at the time of retirement for the retiree for the life insurance program maintained by the employer which may be reduced to a minimum of five thousand dollars (\$5,000) of coverage.

(2) The retiree may continue to pay the premiums for the health, accident, dental and life insurance to the extent of the funds credited to the employee's account pursuant to this section, and when these funds are expended, the premiums may be deducted from the retiree's allowance. Upon a retiree's death, any unexpended sums remaining in the retiree's account shall revert to the sick leave account. If funds are not available for payment by the Idaho public employee retirement system from the retiree's surviving dependent spouse's allowance, the insurance carrier shall implement a direct billing procedure to permit the retiree's surviving spouse to continue coverage.

(3) Each employer shall contribute to a sick leave account maintained by the public employee retirement system in trust exclusively for the purpose of the provisions of this section. The retirement board shall serve as trustee of the trust and shall be indemnified to the same extent as provided in section 59-1305, Idaho Code. Assets in the trust shall not be assignable or subject to execution, garnishment or attachment or to the operation of any bankruptcy or insolvency law. The rate of such contribution each pay period shall consist of a percentage of employees' salaries as determined by the board, and such rate shall remain in effect until next determined by the board. Any excess balance in the sick leave account shall be invested, and the earnings therefrom shall accrue to the sick leave account except the amount required by the board to defray administrative expenses. Assets of the trust may be commingled for investment purposes with other assets managed by the retirement board. All moneys payable to the sick leave account are hereby perpetually appropriated to the board and shall not be included in its departmental budget.

(4) For purposes of this section public school employment shall be defined to include the employees of the Idaho digital learning academy, and to permit inclusion of employees of organizations funded by school districts or of contributions of employees of school districts and shall include employees of the Idaho bureau of educational services for the deaf and the blind.

Approved March 14, 2018

CHAPTER 92
(S.B. No. 1268)

AN ACT

RELATING TO DRAINAGE DISTRICTS; AMENDING SECTION 42-2913, IDAHO CODE, TO REVISE PROVISIONS REGARDING DRAINAGE COMMISSIONER COMPENSATION; AMENDING SECTION 42-2936, IDAHO CODE, TO PROVIDE FOR ASSESSMENT FOR THE PAYMENT OR RETIREMENT OF ANY BONDS OR WARRANTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 42-2962, IDAHO CODE, TO PROVIDE FOR ASSESSMENTS FOR THE PAYMENT OF RETIREMENT OF BONDS OR WARRANTS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 42-2979, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE SALE OF PERSONAL PROPERTY OF A DRAINAGE DISTRICT AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING CHAPTER 29, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-2979A, IDAHO CODE, TO PROVIDE FOR THE TRADE-IN OR EXCHANGE OF PERSONAL PROPERTY OF THE DISTRICT, TO PROVIDE A PROCEDURE AND TO PROVIDE A CONDITION.

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

SECTION 1. That Section 42-2913, Idaho Code, be, and the same is hereby amended to read as follows:

42-2913. COMPENSATION. The drainage commissioners shall receive for their services such sum as the board of drainage district commissioners fix by resolution, ~~but not greater than the amount allowed in section 59-509(h), Idaho Code,~~ for each day they shall actually be engaged in the business of their office, and actual and necessary expenses. In addition, the commissioners shall each receive a mileage allowance computed at the rate established by the state board of examiners for employees of the state for each mile driven and such allowance shall be the full amount allowed for travel expense.

SECTION 2. That Section 42-2936, Idaho Code, be, and the same is hereby amended to read as follows:

42-2936. ASSESSMENTS ENTERED AS TAX LIENS -- ~~INSTALLMENTS~~INSTALLMENTS. A similar transcript duly certified by the clerk which shall contain a list of the names of all persons and corporations benefited by said improvement and the amount of the assessment upon each lot, parcel or governmental subdivision shall be by said clerk filed with the auditor of the county, who shall immediately enter the same upon the tax rolls of his office, as provided by law for the entry of other taxes, against the land of each of the said persons named in the list, together with the amounts thereof; and the same shall be subject to the same interest and penalties in case of delinquency as in case of general taxes and shall be collected in the same manner as other taxes and subject to the same right of redemption, and the lands sold for the collection of said taxes shall be subject to the same right of redemption, as the sale of lands for general taxes; provided, that said assessment shall not become due and payable except at such time or times and in such amounts as may be designated by the board of commissioners of said drainage district, which designation shall be made to the county auditor by said board of commissioners of said drainage district, by serving written notice upon the county auditor designating the time and the amount of the assessment, said assessment to be in proportion to the benefits to become due and payable, which amount shall fall due at the time of the falling due of general taxes, and the amount so designated shall be added by the auditor to the general taxes of said person, persons or corporation, according to said notice, upon the assessment rolls in his said office, and collected there-

with: provided further, that no one call for assessment for the payment or retirement of any bonds or warrants by said commissioners shall be in amount to exceed ~~twenty per cent~~ percent (20%) of the actual amount necessary to pay the cost of proceedings, and the establishment of said district and drainage system and the cost of construction of said work. In all calls for assessments made under the provisions hereof for the payment or retirement of any bonds or warrants issued subsequent to February 25, 1935, the commissioners shall itemize the various items for which a call is made, specifying the percentage called against the assessment roll for bond interest, bond redemption, warrant interest, warrant redemption, operation and maintenance and any other purpose for which a call is made. The board by resolution shall, prior to any call for the payment or retirement of any bonds or warrants issued subsequent to February 25, 1935, determine separately the interest requirement for bonds and warrants outstanding and shall not make a call or levy for interest payment in excess of the actual amount required stated separately. Calls made for the payment of such prior bonds and warrants issued prior to September 25, 1935, as to itemization thereof, as to the specification of the percentage called against the assessment roll for the foregoing purposes and as to the separate determination of interest requirements for the payment of outstanding bonds and warrants and as to the call or levy in amount for interest or principal payments or for the payment of funding or refunding bonds issued heretofore or hereafter to fund or to refund or to pay any of said prior warrants or bonds, shall be as provided by the statutes of Idaho in effect prior to February 25, 1935.

SECTION 3. That Section 42-2962, Idaho Code, be, and the same is hereby amended to read as follows:

42-2962. LEVY OF AND LIMITATION ON ASSESSMENTS. The commissioners may also levy assessments for any expense necessarily incurred by them for construction, maintenance, repair, or any extraordinary reasons, and also may add to said assessment sufficient to pay any deficiency occurring the preceding year or any other unpaid warrant indebtedness, if any, or to pay any outstanding warrants: provided, that any assessments to be hereafter made by any drainage commissioners to pay for the payment or retirement of any bonds or warrants shall not exceed twenty percent (20%) of the original cost of organization and construction, and said assessment for the payment or retirement of any bonds or warrants shall be in addition to the assessments which may be levied under this section or section 42-2936, Idaho Code, and such assessments, when made, shall be apportioned under section 42-2961, Idaho Code, and collected as hereinbefore provided for.

SECTION 4. That Section 42-2979, Idaho Code, be, and the same is hereby amended to read as follows:

42-2979. SALE OF PERSONAL PROPERTY -- PROCEDURE. Personal property of a drainage district may be sold by its board of commissioners whenever the board finds and by resolution declares that the district no longer has use therefor.

1. If, in the opinion of the board, such property does not exceed \$500 fifty thousand dollars (\$50,000) in value, it may sell the same without independent appraisal, notice or competitive bids.

2. Personal property exceeding \$500 fifty thousand dollars (\$50,000) in estimated value shall first be appraised by three (3) disinterested freeholders of the district, who shall be selected by the board. It may then be sold at public or private sale to the highest bidder for cash at not less than its appraised value, after due notice.

3. Notice of sale shall describe the property, the appraised value thereof (by separate items, if so appraised), and the time, place and condition of sale.

4. If the appraised value does not exceed \$1000 fifty thousand dollars (\$50,000), notice of sale shall be posted in three (3) public places in said district to be determined in the resolution of said board of commissioners (one (1) of which shall be at the office or meeting place of said board) at least ten (10) days before the date of sale.

5. If the appraised value of the property exceeds \$1000 fifty thousand dollars (\$50,000), notice shall be posted as set forth in ~~subdivision 4 above~~ subsection 4. of this section and in addition shall be published in a weekly newspaper, published or having a general circulation in the district, once each week during the four (4) weeks preceding the date of sale.

SECTION 5. That Chapter 29, 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 42-2979A, Idaho Code, and to read as follows:

42-2979A. TRADE-IN OR EXCHANGE OF DISTRICT PROPERTY. (1) Whenever the board of commissioners of a drainage district finds and by resolution declares that the district no longer has use for any personal property of the district, or finds and declares that such property is no longer economical to use, the district may, in lieu of the sale of said property as provided in section 42-2979, Idaho Code, dispose of the property by exchanging the same in part payment for new or replacement property.

(2) If the acquisition of the new or replacement property is to be let to bid under the provisions of chapter 28, title 67, Idaho Code, the district shall include in its request for bids a full description of the property to be exchanged as part payment and shall permit any interested bidder to examine the same, and any contract let as a result of said bid shall be awarded on the basis of net cost to the district after allowance for the property to be exchanged in part payment.

(3) Exchange of property will be permitted only when, in the opinion of the board of commissioners of the district, the sale of property under the provisions of section 42-2979, Idaho Code, will yield a lesser monetary return to the district than the exchange thereof as provided in this section.

Approved March 14, 2018

CHAPTER 93
(S.B. No. 1282)

AN ACT

RELATING TO SHERIFFS; AMENDING SECTION 31-830, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 31-4602, IDAHO CODE, TO REVISE TERMINOLOGY; AND AMENDING SECTION 49-443B, IDAHO CODE, TO PROVIDE LICENSE PLATE DESIGNATORS FOR VEHICLES BELONGING TO A SHERIFF'S OFFICE AND CERTAIN OTHER VEHICLES AND TO PROVIDE AN EXEMPTION.

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

SECTION 1. That Section 31-830, Idaho Code, be, and the same is hereby amended to read as follows:

31-830. AWARD TO COUNTY SHERIFF OR DEPUTY COUNTY SHERIFF OF HIS HAND-GUN AND BADGE UPON RETIREMENT. (1) A county sheriff who retires during or upon the completion of his term of office under the provisions of the public employee retirement system of Idaho or the county's retirement system,

whether under disability retirement or otherwise, may, with the consent of the board of county commissioners, be awarded his handgun and sheriff's badge along with the identification card issued by the county sheriff's department office. The identification card shall have "RETIRED" printed on it, shall have no fixed expiration date and shall be signed by the county sheriff.

(2) Upon recommendation of the county sheriff and with the consent of the board of county commissioners, a deputy county sheriff holding police officer member status under the public employee retirement system of Idaho pursuant to section 59-1303(3)(b)(ii), Idaho Code, or if the county by which he is employed does not participate in the system, who would qualify for such status under the provisions of that section if the county were a participant in the system, may, upon his retirement, be awarded his handgun and sheriff's badge along with the identification card issued by the county sheriff's department office. The identification card shall have "RETIRED" printed on it, shall have no fixed expiration date and shall be signed by the county sheriff. The award shall be available to any deputy county sheriff, as defined above described in this section, who leaves his employment with the county sheriff's department office to retire under the provisions of the public employee retirement system of Idaho or the county's retirement system, whether under disability retirement or otherwise.

SECTION 2. That Section 31-4602, Idaho Code, be, and the same is hereby amended to read as follows:

31-4602. JUSTICE FUND ESTABLISHMENT. The board of county commissioners of any county may, in conjunction with development of their annual budget, by resolution adopted at a public meeting of the board, establish a county justice fund to provide funding for the operation of the county sheriff's department office, construction, remodeling, operation and maintenance of county jails, juvenile detention facilities and/or county courthouses, operation of the prosecuting attorney's office, provision of public defender service and otherwise court-appointed counsel, and operation of the office of the clerk of the district court, to the extent that operation of that office provides support for the district court. The justice fund shall be separate and distinct from the county current expense fund and expenditures from the justice fund shall be solely dedicated to the purposes set forth in this section.

At the discretion of the board of county commissioners, funds deposited in the county justice fund may be allowed to accumulate over a period of years for designated capital improvements or be expended on a regular basis.

SECTION 3. That Section 49-443B, Idaho Code, be, and the same is hereby amended to read as follows:

49-443B. LICENSE PLATES FOR STATE VEHICLES AND VEHICLES BELONGING TO TAXING DISTRICTS. (1) License plates for state vehicles and vehicles belonging to taxing districts shall be valid for a period of seven (7) years pursuant to section 49-443(2), Idaho Code, and shall remain on the vehicle to which it is issued until transferred to another vehicle or until it is canceled by the department. The department shall be reimbursed by state agencies and the taxing districts for the cost of providing license plates. The department may develop rules to administer this license plate program.

(2) Each license plate issued pursuant to this section shall bear a designator to identify the agency, entity or office to which a vehicle belongs or, for trailers or motorcycles, to specify the plate type. Any vehicle with a license plate issued pursuant to this section that does not comply with the provisions of this subsection as of the effective date of this act shall be reregistered, subject to a reregistration fee of twelve dollars and fifty

cents (\$12.50) , within sixty (60) days of the effective date of this act. The designators shall be as follows:

<u>Designator</u>	<u>Agency, entity, office, or plate type</u>
<u>A</u>	<u>Trailer (all weights); small plate</u>
<u>C</u>	<u>School district or miscellaneous city or county agencies, entities or offices</u>
<u>D</u>	<u>Highway district</u>
<u>F</u>	<u>Fire district</u>
<u>G</u>	<u>Fish and game</u>
<u>H</u>	<u>Department of health and welfare</u>
<u>ISP</u>	<u>Idaho state police</u>
<u>J</u>	<u>Department of commerce or department of labor</u>
<u>L</u>	<u>Law enforcement</u>
<u>M</u>	<u>Motorcycle; small plate</u>
<u>P</u>	<u>City police</u>
<u>R</u>	<u>Department of parks and recreation</u>
<u>SO</u>	<u>Sheriff's office</u>
<u>T</u>	<u>Department of transportation</u>
<u>X</u>	<u>Miscellaneous state agencies, entities or offices</u>
<u>Y</u>	<u>Irrigation district</u>
<u>Z</u>	<u>Department of lands</u>

(3) Personalized or specialty license plates are exempt from the provisions of subsection (2) of this section.

Approved March 14, 2018

CHAPTER 94
(S.B. No. 1294)

AN ACT

RELATING TO TAXATION; AMENDING SECTION 63-2506, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE CIGARETTE TAX; AND AMENDING SECTION 63-2552A, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE TOBACCO TAX.

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

SECTION 1. That Section 63-2506, Idaho Code, be, and the same is hereby amended to read as follows:

63-2506. IMPOSITION OF TAX. (1) On and after July 1, 2005, a tax upon the purchase, storage, use, consumption, handling, distribution or wholesale sale of cigarettes is hereby imposed at the rate of fifty-seven cents (57¢) per package of twenty (20) cigarettes, which tax shall be paid by the wholesaler, and collected by the state tax commission. Beginning July 1, 2014, and every year thereafter, of the tax collected pursuant to this subsection, three million three hundred fifteen thousand dollars (\$3,315,000) shall be subject to appropriation to the public school income fund to be utilized to develop and implement school safety improvements and to facilitate and provide substance abuse prevention programs in the public school system and the Idaho bureau of educational services for the

deaf and the blind. Beginning July 1, 2014, and every year thereafter, of the tax collected pursuant to this subsection, three million three hundred fifteen thousand dollars (\$3,315,000) shall be subject to appropriation to the department of juvenile corrections for distribution to the counties to be utilized for county juvenile probation services.

(2) Appropriated funds shall be distributed quarterly to the counties based upon the percentage the population of the county bears to the population of the state as a whole.

(3) The remaining moneys collected and those moneys not appropriated under the provisions of this section shall be distributed as specified in section 63-2520, Idaho Code.

SECTION 2. That Section 63-2552A, Idaho Code, be, and the same is hereby amended to read as follows:

63-2552A. ADDITIONAL TAX IMPOSED -- RATE. (1) In addition to the tax imposed in section 63-2552, Idaho Code, from and after July 1, 1994, there is levied and there shall be collected an additional tax upon the sale, use, consumption, handling, or distribution of all tobacco products in this state at the rate of five percent (5%) of the wholesale sales price of such tobacco products. Such tax shall be imposed at the time the distributor:

(a) Brings, or causes to be brought, into this state from without the state tobacco products for sale;

(b) Makes, manufactures, or fabricates tobacco products in this state for sale in this state; or

(c) Ships or transports tobacco products to retailers in this state to be sold by those retailers.

(2) Each distributor, within twenty (20) days after July 1, 1994, shall file a report with the commission, in such form as the commission may prescribe, showing the tobacco products on hand on July 1, 1994, and the amount of tax due thereon. The tax imposed in this subsection shall be due and payable within twenty (20) days after July 1, 1994, and thereafter shall bear interest at the rate of one percent (1%) per month.

(3) Fifty percent (50%) of the tax collected pursuant to this section shall be subject to appropriation to the public school income fund to be utilized to develop and implement school safety improvements and to facilitate and provide substance abuse prevention programs in the public school system and the Idaho bureau of educational services for the deaf and the blind, less two hundred thousand dollars (\$200,000) that shall be remitted annually to the Idaho state police to increase toxicology lab capacity in the bureau of forensic services for drug testing of juveniles, and less eighty thousand dollars (\$80,000) that shall be remitted to the commission on Hispanic affairs to be used for substance abuse prevention efforts in collaboration with the state department of education. Fifty percent (50%) of the tax collected pursuant to this section shall be subject to appropriation to the department of juvenile corrections for distribution quarterly to the counties to be utilized for county juvenile probation services, based upon the percentage the population of the county bears to the population of the state as a whole. The moneys remitted to the Idaho state police shall be reviewed annually and any money in excess to the operations needs of the laboratory for juvenile drug testing will be deposited in the public school income fund for substance abuse prevention programs in the public school system. The laboratory may utilize this increased toxicology capacity for adult drug testing to the extent that timely testing for juveniles is not adversely impacted.

Approved March 14, 2018

CHAPTER 95
(S.B. No. 1212)

AN ACT

RELATING TO CAREER TECHNICAL EDUCATION; AMENDING SECTION 33-2202, IDAHO CODE, TO REVISE TERMINOLOGY AND TO REVISE A DEFINITION.

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

SECTION 1. That Section 33-2202, Idaho Code, be, and the same is hereby amended to read as follows:

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

(2) As used in this title, unless otherwise specifically defined, the term "career technical education" means secondary, postsecondary and adult courses, programs, training and services administered by the division of career technical education for occupations or careers that require other than a baccalaureate, master's or doctoral degree. As approved by the board, this term may also apply to specific courses or programs offered in grades 7 and 8.

(3) The courses, programs, training and services include, but are not limited to, ~~vocational~~ career, technical and applied technology education. They are delivered through the career technical delivery system of public secondary and postsecondary schools and colleges.

Approved March 15, 2018

CHAPTER 96
(S.B. No. 1221)

AN ACT

RELATING TO HIGHER EDUCATION; AMENDING SECTION 33-2102, IDAHO CODE, TO PROVIDE A CODE REFERENCE; AMENDING SECTION 33-2205, IDAHO CODE, TO PROVIDE THAT CERTAIN POSTSECONDARY CREDITS SHALL TRANSFER AT FULL CREDIT VALUE TO IDAHO PUBLIC COLLEGES AND UNIVERSITIES; AND AMENDING CHAPTER 37, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-3728, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING TRANSFER OF CREDITS.

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

SECTION 1. That Section 33-2102, Idaho Code, be, and the same is hereby amended to read as follows:

33-2102. COURSES OF STUDY. A community college established pursuant to the provisions of this chapter shall give instruction in academic subjects, and in such nonacademic subjects as shall be authorized by its board of trustees.

The academic courses given and the instruction therein shall be of the same standard as the same are given and taught in the first two (2) years of any other state institution of higher education, and credits therefor shall be accepted by other state institutions for credit toward a baccalaureate degree, pursuant to section 33-3728, Idaho Code.

SECTION 2. That Section 33-2205, Idaho Code, be, and the same is hereby amended to read as follows:

33-2205. STATE BOARD TO APPOINT ADMINISTRATOR -- DESIGNATION OF ASSISTANTS -- DIVISION OF CAREER TECHNICAL EDUCATION -- DUTIES AND POWERS. (1) The state board of education shall appoint a person to serve as an administrator to the state board for career technical education, who shall be known as the administrator of career technical education. The administrator shall designate, by and with the advice and consent of the state board for career technical education, such assistants as may be necessary to properly carry out the provisions of the federal acts and this chapter for the state of Idaho. The administrator and such assistants shall together be known as the division of career technical education.

(2) The administrator of career technical education shall also carry into effect such rules as the state board for career technical education may adopt, and shall coordinate all efforts in career technical education approved by the board with the executive secretary, and shall prepare such reports concerning the condition of career technical education in the state as the state board for career technical education may require.

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

(4) The division of career technical education may provide incentives to Idaho public colleges and universities offering career technical programs that, in coordination with the division, align their foundational courses that are required in the same or substantially similar programs of study so as to achieve uniformity and transferability in the core program requirements at all such public colleges and universities. ~~The purpose of uniformity is to ensure that p~~Postsecondary credits earned by a student in a career technical education program will shall transfer at the full credit value to any public Idaho college or university in a like program of study and ~~to ensure that~~ such postsecondary credits will be treated by any such public college or university as satisfying specific course requirements in ~~the student's~~ such program of study.

(5) The state board of education may promulgate rules to implement the provisions of ~~subsections (3) and (4) of~~ this section.

SECTION 3. 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 33-3728, Idaho Code, and to read as follows:

33-3728. TRANSFER OF CREDITS. (1) Any student who completes the requirements for the associate of arts or associate of science degree at a postsecondary institution accredited by a regional accrediting body recognized by the state board of education will be considered as satisfying the general education requirements, as defined by the state board of education, upon transfer to a public postsecondary institution in Idaho and will not be required to complete any additional general education requirements.

(2) A student who has completed the general education framework as defined by the state board of education, without an associate of arts or associate of science degree, and transfers from a postsecondary institution in Idaho accredited by a regional accrediting body recognized by the state board of education will not be required to complete additional general education requirements at the receiving Idaho public postsecondary institution.

(3) If a student who has completed a general education course or general education courses but has not completed the entire general education framework; or has not earned an associate of arts or associate of science degree from a postsecondary institution in Idaho accredited by a regional accrediting body recognized by the state board of education; or has earned an associate of applied science degree from a postsecondary institution in Idaho accredited by a regional accrediting body recognized by the state board of education; and transfers to a public postsecondary institution, those general education course credits will be applied towards the associated general education course requirements at the receiving public postsecondary institution.

(4) Any student who completes an associate of applied science degree at a postsecondary institution in Idaho accredited by a regional accrediting body recognized by the state board of education and meets the receiving institution's criteria for admission may pursue an interdisciplinary bachelor of applied science or a bachelor of applied technology degree focused on upper-level academic coursework at any Idaho public postsecondary institution that has such degree programs available.

(5) Receiving institutions must notify students in writing of all initial credit transfer decisions. Whenever a receiving institution makes an initial credit transfer decision that results in credits not being transferred in a manner that moves the student toward certificate or degree completion or in the manner requested by a student or applicant, the receiving institution must provide a written explanation of the credit transfer decision to the student or applicant specifying why the credits were not eligible for transfer or were not credited toward certificate or degree progress

and the policies and procedures available to the student to request reconsideration of the initial credit transfer decision. Written explanations may be provided in an electronic format. Institutions shall report annually to the state board of education the number of credits that were requested to be transferred, the number of credits transferred, the number of credits that were not applied toward certificate or degree progress, including those credits that transferred as electives over the amount needed for certificate or degree progress, and such other information requested by the state board of education.

(6) No Idaho public postsecondary institution shall discriminate against any student or applicant for admission due to the number of credits that the student may be able to transfer, or has transferred, to the public college or university pursuant to this section, any other provision of law, or any rule, policy, guideline or practice of the state board of education or the public postsecondary institution.

(7) Nothing in this section shall be deemed to:

(a) Invalidate any requirement that a student earn a specified number of credits at an Idaho public college or university in order to receive a degree from the institution;

(b) Require any Idaho public postsecondary institution to grant a student a degree within a specified period of time; or

(c) Amend the provisions of section 33-2205(4), Idaho Code, or expand the rights of career technical education students or applicants with respect to the transfer of credits from one (1) institution to another.

(8) All public postsecondary institutions are responsible for working to facilitate the effective and efficient transfer of students between public Idaho postsecondary institutions. Institutions shall publish the current curriculum equivalencies of all courses on the state board of education transfer web portal.

Approved March 15, 2018

CHAPTER 97
(S.B. No. 1249)

AN ACT

RELATING TO HIGHER EDUCATION; AMENDING CHAPTER 37, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-3728, IDAHO CODE, TO REQUIRE PUBLIC INSTITUTIONS OF HIGHER EDUCATION TO NOTIFY STUDENTS OF THE OPTION TO REGISTER AS AN ORGAN DONOR.

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 33-3728, Idaho Code, and to read as follows:

33-3728. ORGAN DONATION NOTIFICATION. (1) An institution of higher education that receives funding from the state shall notify all students by electronic message of the option to register as an organ donor. The notice shall include instructions for how to register as an organ donor.

(2) The notice required by subsection (1) of this section shall be delivered at least twice each academic year.

Approved March 15, 2018

CHAPTER 98
(S.B. No. 1250)

AN ACT

RELATING TO STATE OFFICERS AND EMPLOYEES; AMENDING SECTION 59-1608, IDAHO CODE, TO REQUIRE ANNUAL NOTICE OF LEAVE OFFERED FOR ORGAN DONATION AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 67-5343, IDAHO CODE, TO REQUIRE ANNUAL NOTICE OF LEAVE OFFERED FOR ORGAN DONATION AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 59-1608, Idaho Code, be, and the same is hereby amended to read as follows:

59-1608. LEAVE OF ABSENCE FOR BONE MARROW OR ORGAN DONATION. (1) A full-time nonclassified officer or full-time nonclassified employee shall be granted a leave of absence for the time specified for the following purposes:

(a) Five (5) workdays to serve as a bone marrow donor if the officer or employee provides the appointing authority written verification that the employee is to serve as a bone marrow donor; and

(b) Thirty (30) workdays to serve as a human organ donor if the officer or employee provides the appointing authority written verification that the employee is to serve as a human organ donor.

(2) An officer or employee who is granted a leave of absence pursuant to the provisions of this section shall receive his compensation without interruption during the leave of absence. For purposes of determining longevity, performance, pay advancement and performance awards and for receipt of any benefit that may be affected by a leave of absence, the service of the officer or employee shall be considered uninterrupted by the leave of absence.

(3) The appointing authority shall not penalize an officer or employee for requesting or obtaining a leave of absence pursuant to the provisions of this section.

(4) The leave authorized by this section may be requested by the officer or employee only if the officer or employee is the person who is serving as the donor.

(5) Full-time nonclassified officers and employees shall be notified of the leave offered pursuant to this section each April in an electronic message distributed by the state controller's office.

SECTION 2. That Section 67-5343, Idaho Code, be, and the same is hereby amended to read as follows:

67-5343. LEAVE OF ABSENCE FOR BONE MARROW OR ORGAN DONATION. (1) A full-time employee shall be granted a leave of absence for the time specified for the following purposes:

(a) Five (5) workdays to serve as a bone marrow donor if the employee provides the appointing authority written verification that the employee is to serve as a bone marrow donor; and

(b) Thirty (30) workdays to serve as a human organ donor if the employee provides the appointing authority written verification that the employee is to serve as a human organ donor.

(2) An employee who is granted a leave of absence pursuant to the provisions of this section shall receive his compensation without interruption during the leave of absence. For purposes of determining longevity, performance, pay advancement and performance awards and for receipt of any benefit

that may be affected by a leave of absence, the service of the employee shall be considered uninterrupted by the leave of absence.

(3) The appointing authority shall not penalize an employee for requesting or obtaining a leave of absence pursuant to the provisions of this section.

(4) The leave authorized by this section may be requested by the employee only if the employee is the person who is serving as the donor.

(5) Full-time employees shall be notified of the leave offered pursuant to this section each April in an electronic message distributed by the state controller's office.

Approved March 15, 2018

CHAPTER 99
(S.B. No. 1278)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1025, IDAHO CODE, TO REVISE PROVISIONS REGARDING WIRELESS TECHNOLOGY STANDARDS.

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

SECTION 1. That Section 33-1025, Idaho Code, be, and the same is hereby amended to read as follows:

~~33-1025. WIRELESS TECHNOLOGY STANDARDS FOR FUNDING PURPOSES. (1) In order to be eligible to receive state funds for wireless technology infrastructure serving grades 9-12, sSchool districts and public charter schools shall first demonstrate to the state department of education that said wireless infrastructure meets or exceeds the following: wireless technology standards recommended by the education opportunity resource committee and approved by the state department of education. The education opportunity resource committee shall annually review and recommend wireless technology standards to the state department of education.~~

~~(1) Functionality. The wireless system shall ensure coverage such that there is sufficient capacity to connect all mobile computing devices to the wireless local area network (LAN) from any instructional and administrative area in the school. Students and educators will experience a transparent roaming connectivity to the wireless LAN while moving through all rooms and areas in the school building. The wireless system shall include access to all instructional areas as well as all administrative areas including, at a minimum, academic classrooms for all content areas, frequently used study areas, media centers, assembly spaces, libraries and administrative offices. The functionality shall meet requirements established pursuant to this section.~~

~~(2) Validation testing. System validation testing shall be conducted by school districts in conjunction with the state department of education to confirm the wireless installation meets or exceeds the functional requirements and performance and reliability specifications established pursuant to this section. This validation test will give the school district the opportunity to test its wireless system and will assure the state department of education that the solution meets or exceeds established performance and reliability standards. The testing shall include connectivity, usability and reliability during the first year. The state department of education reserves the right to require additional testing as deemed appropriate to ensure the ongoing functionality and integrity of the wireless system. All installations shall include a site work completion and satisfaction verifi-~~

~~ation signed by the responsible individuals designated by both the school district and the state department of education.~~

(32) Content filtering and wireless security. Internet content filtering shall be included as part of any wireless internet access made available to children, as required by section 33-132, Idaho Code. The filtering solution shall be configurable to school district policies on acceptable, age appropriate internet content. The content filtering shall include the ability:

(a) For each school to manage its own filtering policies, including the decision to block specific categories of content and to maintain its own whitelist and blacklist overrides;

(b) To provide individual district utilization and filtering reports, including the most frequently visited websites, the most frequently visited categories, the most frequently blocked websites, search terms most frequently used and the top authenticated users;

(c) To audit all changes to content filtering;

(d) For all reporting and management of content filtering to be available through any internet-connected browser and efficiently perform all content filtering functions; and

(e) To protect against eavesdropping and unauthorized access, which shall include encryption or other techniques to provide assurances that the school district may turn on or off as school district policy indicates.

~~For the purposes of this section, the term "school district" also means public charter school. The state department of education shall develop wireless functionality, performance and reliability requirements. The department may consult with the Idaho education technology association in developing the requirements.~~

Approved March 15, 2018

CHAPTER 100

(S.B. No. 1292, As Amended)

AN ACT

RELATING TO THE ADVANCED OPPORTUNITIES SCHOLARSHIP; AMENDING SECTION 33-4601, IDAHO CODE, TO REVISE DEFINITIONS; AND AMENDING SECTION 33-4602, IDAHO CODE, TO PROVIDE ELIGIBILITY REQUIREMENTS FOR COURSES AND CREDITS THAT QUALIFY FOR THE ADVANCED OPPORTUNITIES SCHOLARSHIP, TO PROVIDE THAT A STUDENT MUST APPLY FOR THE SCHOLARSHIP WITHIN TWO YEARS OF GRADUATION FROM A PUBLIC SCHOOL, TO CLARIFY THE REIMBURSEMENT TO BE PAID BY THE STATE DEPARTMENT OF EDUCATION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 33-4601, Idaho Code, be, and the same is hereby amended to read as follows:

33-4601. DEFINITIONS. For purposes of this chapter, the following definitions shall apply:

(1) "Credit" means middle level or high school credit.

(2) "Dual credit" is as defined in section 33-5102, Idaho Code.

(3) "Full credit load" means at least twelve (12) credits per school year for grades 7-12 ~~or the maximum number of credits offered by the student's school during the regular school day per school year, whichever is greater.~~

(4) "Overload course" means a course taken that is in excess of a full credit load and outside of the regular school day, including summer courses.

(5) "Parent" means parent or parents or guardian or guardians.

(6) "Public schools" means an Idaho school district, charter school or Idaho tribal school.

(7) "School year" means the normal school year that begins upon the conclusion of the spring semester leading up to the break between grades and ends upon the beginning of the same break of the following year.

SECTION 2. That Section 33-4602, Idaho Code, be, and the same is hereby 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, college postsecondary credit-bearing examinations and professional career technical certificate examinations. Students may access these funds in grades 7 through 12 for:

(a) Overload courses, the distribution of which may not exceed two hundred twenty-five dollars (\$225) per overload course. A student must take and successfully be completing a full credit load within a given school year to be eligible for funding of an overload course. An overload course must be taken for high school credit to be eligible for funding. 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 college postsecondary credit-bearing or professional career technical certificate examinations. The state department of education shall maintain a list of eligible exams and costs. Eligible examinations include:

(i) Advanced placement (AP);

(ii) International baccalaureate (IB);

(iii) College-level examination program (CLEP); and

(iv) Career technical examinations.

(d) Career technical education (CTE) including assessments that lead to a badge recognized by the division of career technical education. The division of career technical education shall maintain a list of eligible CTE examinations and costs.

~~(2) To qualify as an eligible overload course for the program, the course must be offered by a provider accredited by the organization that accredits Idaho high schools and be taught by an individual certified to teach the grade and subject area of the course in Idaho. Eligible examinations include advanced placement (AP), international baccalaureate (IB), college-level examination program (CLEP) and professional technical examinations. The state department of education shall maintain a list of such examinations and costs. 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 subsection. Payments made under this subsection shall be made from the moneys appropriated for the educational support program. No later than January 15, the state department of education shall annually report to the education committees of the senate and the house of representatives details regarding the number of students benefiting from assistance with the cost of overload courses, dual credit courses and examinations, the number of credits awarded and amounts paid pursuant to this subsection during the previous school year.

(4) The board of each public school may set forth criteria by which a student may challenge a course. If a student successfully meets the criteria set forth by the board of the public school, then the student shall be counted as having completed all required coursework for that course. The public school, with the exception of Idaho tribal schools, shall be funded for such students based upon either actual hours of attendance or the course that the student has successfully passed, whichever is more advantageous to the public school, up to the maximum of one (1) full-time student.

(5) Any student who successfully completes public school grades 1 through 12 curriculum at least one (1) year early shall be eligible for an advanced opportunities scholarship. The scholarship may be used for tuition and fees at any Idaho public postsecondary educational institution. The amount of the scholarship shall equal thirty-five percent (35%) of the statewide average daily attendance-driven funding per enrolled pupil for each year of grades 1 through 12 curriculum avoided by the student's early graduation. Each public school shall receive an amount equal to each such awarded scholarship for each student that graduates early from their 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 for any course for which the department has paid a reimbursement, the student must pay for and successfully earn credit for one (1) like course before the state department of education may pay any further reimbursements for the student. If a student performs inadequately on an examination for which the state department of education has paid a reimbursement, the public school shall determine whether the student must pay for and successfully pass such examination to continue receiving state funding. Repeated and remedial courses or examinations are not eligible for funding through these programs.

(9) The state department of education shall reimburse community colleges or counties, as applicable, for any out-of-district county tuition ~~payments that would otherwise be made by a county to a community college~~ pursuant to section 33-2110A, Idaho Code. Such reimbursements shall be in an amount not to exceed fifty dollars (\$50.00) per credit hour and only for dual credit courses taken pursuant to this section.

(10) Public schools shall establish timelines and requirements for participation in the program, including implementing procedures for the appropriate transcription of credits, reporting of program participation

and financial transaction requirements. Public schools shall make reasonable efforts to ensure that any student who considers participating in the program also considers the challenges and time necessary to succeed in the program, and 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 ~~their~~ 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 March 15, 2018

CHAPTER 101
(S.B. No. 1310)

AN ACT

RELATING TO EMERGENCY MEDICAL SERVICES; AMENDING SECTION 56-1016, IDAHO CODE, TO REVISE PROVISIONS REGARDING MINIMUM STANDARDS FOR EMS AGENCIES.

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

SECTION 1. That Section 56-1016, Idaho Code, be, and the same is hereby amended to read as follows:

56-1016. AGENCY MINIMUM STANDARDS. Each ambulance service, air medical service and nontransport service shall be licensed by the EMS bureau based on the level of licensed personnel it utilizes, transport capability

and self-declared geographic coverage area and shall meet the following standards:

(1) Personnel during transport or transfer -- There shall be at least two (2) crew members on each patient transport or transfer, with the crew member delivering patient care being, at a minimum, a licensed emergency medical technician (EMT) or a licensed emergency medical responder (EMR) with a valid ambulance certification issued by the EMS bureau.

(2) Dispatch -- Each licensed EMS agency shall have a twenty-four (24) hour dispatch arrangement and shall respond to calls on a twenty-four (24) hour basis.

(3) Agency inspections and licensing -- The EMS bureau shall conduct inspections at least annually related to agency licensing or shall contract to have the inspections carried out. Each agency shall have a current state license in order to operate.

(4) Ambulance service minimum standards waiver -- The controlling authority providing ambulance services may petition the board for waiver of the ambulance standards of section 56-1016(2), Idaho Code, if compliance with these standards would cause undue hardship on the community being served, or would result in abandonment of ambulance services.

(5) Nontransport service minimum standards waiver -- The controlling authority providing nontransport services may petition the EMS bureau for waiver of the twenty-four (24) hour response requirement of this section if the petition demonstrates that the community, setting, industrial site or event is not populated on a twenty-four (24) hour basis or does not exist on a three hundred sixty-five (365) day per year basis or if compliance with these standards would cause undue hardship on the community being served, or would result in abandonment of nontransport services.

(6) Supervision -- A licensed physician shall supervise the medical activities provided by licensed personnel affiliated with the licensed agency including, but not limited to: establishing standing orders and protocols, reviewing performance of licensed personnel, approving methods for licensed personnel to receive instructions for patient care via radio, telephone or in person, and other oversight as provided in the rules of the commission.

(7) Applicants must submit the following information with their applications and agree to meet the following requirements as a condition of licensure:

(a) A declaration of anticipated applicant agency costs and revenues; a statement of projected changes in response time; and a narrative describing projected clinical benefits to patients resulting from licensure using methods defined in board rules concerning such matters on an application provided by the EMS bureau; and

(b) Collect and report data to the EMS bureau upon receiving a license using a data collection system that is validated as compliant by the national emergency medical services information system technical assistance center in accordance with board rules.

(8) The EMS bureau will provide notice of any such application to all cities, counties and other units of local government that have any geographic coverage area in common with the applicant in accordance with board rules. Such notice will include a summary of the applicant data supplied to the EMS bureau. Any other EMS bureau use of the cost and revenue data supplied by applicants is limited exclusively to informational purposes.

(9) Appeal of a denial of an applicant's license will be governed by IDAPA 16.05.03, rules governing contested case proceedings and declaratory rulings.

CHAPTER 102
(S.B. No. 1322)

AN ACT

RELATING TO THE APPROPRIATION TO THE IDAHO TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 2018; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT IN THE CAPITAL FACILITIES PROGRAM FOR FISCAL YEAR 2018; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 328, Laws of 2017, and any other appropriation provided for by law, there is hereby appropriated to the Idaho Transportation Department in the Capital Facilities Program \$1,381,300 from the State Highway Fund to be expended for capital outlay for the period July 1, 2017, through June 30, 2018.

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, 2018

CHAPTER 103
(S.B. No. 1323)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 2018; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE MANAGEMENT SERVICES PROGRAM FOR FISCAL YEAR 2018 TO PROVIDE FOR ATTORNEY'S FEES; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE ST. ANTHONY WORK CAMP PROGRAM FOR FISCAL YEAR 2018 TO PROVIDE FOR FACILITY EXPANSIONS; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE POCATELLO WOMEN'S CORRECTIONAL CENTER PROGRAM FOR FISCAL YEAR 2018 TO PROVIDE FOR FACILITY EXPANSIONS; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE COUNTY AND OUT-OF-STATE PLACEMENT PROGRAM FOR FISCAL YEAR 2018 TO PROVIDE FOR POPULATION-DRIVEN COSTS; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE COMMUNITY WORK CENTERS PROGRAM FOR FISCAL YEAR 2018 TO PROVIDE FOR FACILITY EXPANSIONS; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE MEDICAL SERVICES PROGRAM FOR FISCAL YEAR 2018 TO PROVIDE FOR HEPATITIS C TREATMENT AND POPULATION-DRIVEN COSTS; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR THE CORRECTIONAL ALTERNATIVE PLACEMENT PROGRAM FOR FISCAL YEAR 2018 DUE TO POPULATION-DRIVEN COSTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 295, Laws of 2017, and any other appropriation provided for by law, there is hereby appropriated to the Department of Correction for the Management Services Program \$529,500 from the General Fund to be expended for operating expenditures for the period July 1, 2017, through June 30, 2018, for the purpose of attorney's fees.

SECTION 2. In addition to the appropriation made in Section 1, Chapter 295, Laws of 2017, and any other appropriation provided for by law, there is hereby appropriated to the Department of Correction for the St. Anthony Work Camp Program the following amounts to be expended for the designated expense classes from the listed funds for the period July 1, 2017, through June 30, 2018, for the purpose of facility expansions:

	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:			
General			
Fund	\$39,000	\$10,000	\$49,000
Inmate Labor			
Fund	<u>36,000</u>	<u>0</u>	<u>36,000</u>
TOTAL	\$75,000	\$10,000	\$85,000

SECTION 3. In addition to the appropriation made in Section 1, Chapter 295, Laws of 2017, and any other appropriation provided for by law, there is hereby appropriated to the Department of Correction for the Pocatello Women's Correctional Center Program \$62,800 from the General Fund to be expended for operating expenditures for the period July 1, 2017, through June 30, 2018, for the purpose of facility expansions.

SECTION 4. In addition to the appropriation made in Section 1, Chapter 295, Laws of 2017, and any other appropriation provided for by law, there is hereby appropriated to the Department of Correction for the County and Out-of-State Placement Program \$1,027,700 from the General Fund to be expended for operating expenditures for the period July 1, 2017, through June 30, 2018, for the purpose of population-driven costs.

SECTION 5. In addition to the appropriation made in Section 1, Chapter 295, Laws of 2017, and any other appropriation provided for by law, there is hereby appropriated to the Department of Correction for the Community Work Centers Program the following amounts to be expended for the designated expense classes from the listed funds for the period July 1, 2017, through June 30, 2018, for the purpose of facility expansions:

	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:			
General			
Fund	\$126,500	\$106,600	\$233,100
Inmate Labor			
Fund	<u>102,600</u>	<u>0</u>	<u>102,600</u>
TOTAL	\$229,100	\$106,600	\$335,700

SECTION 6. In addition to the appropriation made in Section 1, Chapter 295, Laws of 2017, and any other appropriation provided for by law, there is hereby appropriated to the Department of Correction for the Medical Services Program \$3,859,600 from the General Fund to be expended for operating expenditures for the period July 1, 2017, through June 30, 2018, for the purpose of hepatitis C treatment and population-driven costs.

SECTION 7. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Correction for the Correctional Alternative Placement Program in Section 1, Chapter 295, Laws of 2017, from the General Fund is hereby reduced by \$7,300 for operating expenditures for the period July 1, 2017, through June 30, 2018, due to population-driven costs.

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 15, 2018

CHAPTER 104
(S.B. No. 1326)

AN ACT

RELATING TO THE APPROPRIATION TO THE STATE APPELLATE PUBLIC DEFENDER FOR FISCAL YEAR 2019; APPROPRIATING MONEYS TO THE STATE APPELLATE PUBLIC DEFENDER FOR FISCAL YEAR 2019; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING LEGISLATIVE INTENT FOR THE PAYMENT OF OUTSIDE COUNSEL COSTS; AND PROVIDING LEGISLATIVE INTENT 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 funds for the period July 1, 2018, through June 30, 2019:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. OFFICE OF THE STATE APPELLATE PUBLIC DEFENDER:				
FROM:				
General				
Fund	\$2,390,700	\$244,000	\$11,000	\$2,645,700
II. CAPITAL AND CONFLICT REPRESENTATION:				
FROM:				
General				
Fund		\$302,400		\$302,400
GRAND TOTAL	\$2,390,700	\$546,400	\$11,000	\$2,948,100

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the State Appellate Public Defender is authorized no more than twenty-four (24.00) full-time equivalent positions at any point during the period July 1, 2018, through June 30, 2019, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. OUTSIDE COUNSEL COSTS. Of the amount appropriated in Section 1 of this act, \$207,500 from the General Fund, or so much thereof as is necessary, shall be used solely to pay outside counsel for noncapital appeals in which a conflict of interest is identified and only to the extent such costs are exclusive of, and can be identified and accounted for separately and distinctly from, capital representation costs and the operating, personnel and capital outlay costs of the Office of the State Appellate Public Defender program. Any remaining unexpended and unencumbered amounts not so used shall revert to the General Fund.

SECTION 4. CAPITAL REPRESENTATION COSTS. Of the amount appropriated in Section 1 of this act, \$94,900 from the General Fund, or so much thereof as is necessary, shall be used solely for costs directly related to the provision of representation in capital cases and only to the extent such costs are exclusive of, and can be identified and accounted for separately and distinctly from, outside counsel costs of noncapital appeals and the operating, personnel and capital outlay costs of the Office of the State Appellate Public Defender program. Such costs may include, but are not limited to, consultation with experts; travel, lodging, and per diem for expert and lay witnesses; depositions; investigation; employee travel associated with witness interviews; court reporting and transcription services; expert witness fees; outside counsel in the event of a conflict of interest; and preparation of trial exhibits. Any remaining unexpended and unencumbered amounts not so used shall revert to the General Fund.

Approved March 15, 2018

CHAPTER 105
(S.B. No. 1327)

AN ACT

RELATING TO THE APPROPRIATION TO THE DIVISION OF VETERANS SERVICES FOR FISCAL YEAR 2019; APPROPRIATING MONEYS TO THE DIVISION OF VETERANS SERVICES FOR FISCAL YEAR 2019; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING REAPPROPRIATION AUTHORITY FOR FISCAL YEAR 2019.

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

SECTION 1. There is hereby appropriated to the Division of Veterans Services the following amounts to be expended for the designated expense classes from the listed funds for the period July 1, 2018, through June 30, 2019:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$1,078,100			\$49,400	\$1,127,500
Veterans Recognition Income					
Fund				150,000	150,000
Miscellaneous Revenue					
Fund	13,959,100	\$2,200,000	\$83,700		16,242,800
Veterans Home Endowment Income					
Fund	183,800	805,700		1,500	991,000
Federal Grant					
Fund	<u>7,849,300</u>	<u>7,863,900</u>	<u>14,900</u>	<u>0</u>	<u>15,728,100</u>
TOTAL	\$23,070,300	\$10,869,600	\$98,600	\$200,900	\$34,239,400

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Division of Veterans Services is authorized no more than three hundred forty-six (346.00) full-time equivalent positions at any point during the period July 1, 2018, through June 30, 2019, 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 Division of Veterans Services any unexpended and unencumbered balances appropriated to the Division of Veterans Services from the Federal Grant Fund for a second veterans cemetery for fiscal year 2018, in an amount not to exceed \$7,496,100, to be used for nonrecurring expenditures related to the addition of a second veterans cemetery in southeastern Idaho for the period July 1, 2018, through June 30, 2019.

Approved March 15, 2018

CHAPTER 106
(S.B. No. 1328)

AN ACT

RELATING TO THE APPROPRIATION TO THE OFFICE OF ENERGY AND MINERAL RESOURCES FOR FISCAL YEAR 2019; APPROPRIATING MONEYS TO THE OFFICE OF ENERGY AND MINERAL RESOURCES FOR FISCAL YEAR 2019; 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 for the designated expense classes from the listed funds for the period July 1, 2018, through June 30, 2019:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
Indirect Cost Recovery					
Fund	\$78,700	\$32,000			\$110,700
Renewable Energy Resources					
Fund	252,100	38,200			290,300
Miscellaneous Revenue					
Fund	10,100	10,100			20,200
Petroleum Price Violation					
Fund	253,000	154,500	\$6,400	\$58,000	471,900
Federal Grant					
Fund	<u>256,600</u>	<u>159,000</u>	<u>0</u>	<u>0</u>	<u>415,600</u>
TOTAL	\$850,500	\$393,800	\$6,400	\$58,000	\$1,308,700

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, 2018, through June 30, 2019, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 15, 2018

CHAPTER 107
(S.B. No. 1329)

AN ACT

RELATING TO THE APPROPRIATION TO THE LAVA HOT SPRINGS FOUNDATION FOR FISCAL YEAR 2019; APPROPRIATING MONEYS TO THE LAVA HOT SPRINGS FOUNDATION FOR FISCAL YEAR 2019; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Lava Hot Springs Foundation the following amounts to be expended for the designated expense classes from the listed funds for the period July 1, 2018, through June 30, 2019:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Lava Hot Springs Foundation				
Fund	\$1,349,600	\$762,700	\$120,000	\$2,232,300
Lava Hot Springs Capital Improvement				
Fund	<u>0</u>	<u>0</u>	<u>80,000</u>	<u>80,000</u>
TOTAL	\$1,349,600	\$762,700	\$200,000	\$2,312,300

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Lava Hot Springs Foundation is authorized no more than fifteen and eight-tenths (15.80) full-time equivalent positions at any point during the period July 1, 2018, through June 30, 2019, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 15, 2018

CHAPTER 108
(S.B. No. 1330)

AN ACT

RELATING TO THE APPROPRIATION TO THE SOIL AND WATER CONSERVATION COMMISSION FOR FISCAL YEAR 2019; APPROPRIATING MONEYS TO THE SOIL AND WATER CONSERVATION COMMISSION FOR FISCAL YEAR 2019; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING LEGISLATIVE INTENT REGARDING 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 for the designated expense classes from the listed funds for the period July 1, 2018, through June 30, 2019:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$1,215,500	\$187,300	\$3,200	\$1,253,200	\$2,659,200
Administration and Accounting Services					
Fund		30,000			30,000
Resource Conservation and Rangeland Development					
Fund	168,300	147,300	500		316,100
Clean Water Revolving Loan (SCC)					
Fund		30,000			30,000
Federal Grant					
Fund	<u>271,600</u>	<u>17,500</u>	<u>0</u>	<u>0</u>	<u>289,100</u>
TOTAL	\$1,655,400	\$412,100	\$3,700	\$1,253,200	\$3,324,400

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Soil and Water Conservation Commission is authorized no more than twenty-one and seventy-five hundredths (21.75) full-time equivalent positions at any point during the period July 1, 2018, through June 30, 2019, 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. It is the intent of the Legislature that \$100,000 of the amount appropriated in Section 1 of this act for trustee and benefit payments is to 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 15, 2018

CHAPTER 109
(H.B. No. 515)

AN ACT

RELATING TO ADJUSTMENTS TO TAXABLE INCOME; AMENDING SECTION 63-3022, IDAHO CODE, TO PROVIDE THAT THE ADDITION TO TAXABLE INCOME FOR A NONQUALIFIED WITHDRAWAL FROM A COLLEGE SAVINGS PLAN 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 AND TO PROVIDE APPLICATION TO A QUALIFIED ABLE PROGRAM.

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. The election shall be made as under section 172(b)(3) of the Internal Revenue Code. An election under this subsection must be in the manner prescribed in the rules of the state tax commission and once made is irrevocable for the year in which it is made.

(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) 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 carryback 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.

Approved March 15, 2018

CHAPTER 110
(S.B. No. 1266)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-512C, IDAHO CODE, TO REMOVE THE REQUIREMENT THAT TWO SEMESTER CREDITS OF MATHEMATICS MUST BE TAKEN IN THE FINAL YEAR OF HIGH SCHOOL AND TO MAKE TECHNICAL CORRECTIONS.

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

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

33-512C. ENCOURAGEMENT OF GIFTED STUDENTS. If a student completes any required high school course with a grade of C or higher before entering grade ~~nine (9)~~, if that course meets the same standards that are required in high school, if the course is taught by a properly certified teacher who meets the federal definition of being highly qualified for the course being taught and if the school providing the course is accredited as recognized by the state board, the student shall be given a grade for the successful completion of that course, and such grade and the number of credit hours assigned to the course shall be transferred to the student's high school transcript. ~~Two (2) semester credits of the required six (6) semester mathematics credits must be taken in the final year of high school.~~ The provisions of this section do not apply to senior projects.

Law without signature.

CHAPTER 111
(H.B. No. 513)

AN ACT

RELATING TO SALES TAX; AMENDING SECTION 63-36220, IDAHO CODE, TO EXEMPT FROM THE SALES AND USE TAX SALES TO OR PURCHASES BY THE IDAHO ASSOCIATION OF FREE AND CHARITABLE CLINICS AND ITS MEMBER CLINICS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 63-36220, Idaho Code, be, and the same is hereby amended to read as follows:

63-36220. EXEMPT PRIVATE AND PUBLIC ORGANIZATIONS. (1) There are exempted from the taxes imposed by this chapter:

- (a) Sales to or purchases by hospitals, health-related entities, educational institutions, forest protective associations and canal companies which that are nonprofit organizations; and
- (b) Donations to, sales to, and purchases by the Idaho Foodbank Warehouse, Inc.; and
- (c) Donations to, sales to, and purchases by food banks or soup kitchens of food or other tangible personal property used by food banks or soup kitchens in the growing, storage, preparation or service of food, but not including motor vehicles or trailers; and
- (d) Sales of clothes to, donations of clothes to, and purchases of clothes by nonsale clothiers; and
- (e) Sales to or purchases by centers for independent living; and

- (f) Sales to or purchases by the state of Idaho and its agencies and its political subdivisions; and
- (g) Sales to or purchases by volunteer fire departments or licensed emergency medical service agencies; and
- (h) Sales to or purchases by a qualifying senior citizen center; and
- (i) Sales to or purchases by the Blind Services Foundation, Inc.; and
- (j) Donations to, sales to or purchases by the Advocates for Survivors of Domestic Violence and Sexual Assault, Inc., a nonprofit corporation; and
- (k) Sales to or purchases by nonprofit organizations offering free dental clinic services to children; and
- (l) Admissions to and purchases by museums, as defined in subsection (2) of this section.
- (2) As used in this section, these words shall have the following meanings:

ings:

- (a) "Educational institution" shall mean nonprofit colleges, universities, public charter schools organized pursuant to chapter 52, title 33, Idaho Code, the Idaho digital learning academy established pursuant to chapter 55, title 33, Idaho Code, and other primary and secondary schools, the income of which is devoted solely to education and in which systematic instruction in the usual branches of learning is given. This definition does not include schools primarily teaching business, dancing, dramatics, music, cosmetology, writing, gymnastics, exercise and other special accomplishments nor parent-teacher associations, parent groups, alumni or other auxiliary organizations with purposes related to the educational function of an institution or collective group of institutions.
- (b) "Hospital" shall include nonprofit institutions licensed by the state for the care of ill persons. It shall not extend to nursing homes or similar institutions.
- (c) "Health-related entities" shall mean the Idaho Cystic Fibrosis Foundation, Idaho Epilepsy League, Idaho Lung Association, March of Dimes, American Cancer Society, Camp Rainbow Gold, Mental Health Association, The Arc, The Children's Home Society of Idaho, American Heart Association, Idaho Ronald McDonald House, United Cerebral Palsy, Arthritis Foundation, Muscular Dystrophy Foundation, National Multiple Sclerosis Society, Rocky Mountain Kidney Association, American Diabetes Association, Easter Seals, Idaho Community Action Agencies, Idaho Primary Care Association and community health centers ~~who that~~ are members of the Idaho Primary Care Association, the Idaho Association of Free and Charitable Clinics and its member clinics, the Idaho Diabetes Youth Programs, Special Olympics Idaho, the Idaho Women's and Children's Alliance, and the Family Services Alliance of Southeast Idaho, together with said entities' local or regional chapters or divisions.
- (d) "Canal companies" shall include nonprofit corporations ~~which that~~ are incorporated solely for the purpose of operating and maintaining and are engaged solely in operation and maintenance of dams, reservoirs, canals, lateral and drainage ditches, pumps or pumping plants.
- (e) "Forest protective associations" shall mean associations whose purpose is the furnishing, operating and maintaining of a protective system for the detection, prevention and suppression of forest or range fires. Forest protective associations shall include only those associations with which the state of Idaho has contracted or become a member of pursuant to chapter 1, title 38, Idaho Code.
- (f) "Food banks or soup kitchens" shall mean any nonprofit corporation or association, other than the Idaho Foodbank Warehouse, Inc., one of whose regular activities is the furnishing or providing of food or food products to others without charge.

(g) "Nonsale clothier" shall mean any nonprofit corporation or association, one of whose primary purposes is the furnishing or providing of clothes to others without charge.

(h) "Clothes" shall mean garments in general, designed or intended to be worn by humans, and shall include footwear in addition to wearing apparel.

(i) "Center for independent living" shall mean a private, nonprofit, nonresidential organization in which at least fifty-one percent (51%) of the principal governing board, management and staff are individuals with disabilities and that:

(i) Is designed and operated within a local community by individuals with disabilities;

(ii) Provides an array of independent living services and programs; and

(iii) Is cross-disability.

(j) "Political subdivision" means:

(i) A governmental organization which that:

1. Embraces a certain territory,

2. Is organized for public advantage and not in the interest of private individuals or classes,

3. Has been delegated functions of government, and

4. Has the statutory power to levy taxes; or

(ii) A public health district created by section 39-408, Idaho Code; or

(iii) A soil conservation district as defined in section 22-2717, Idaho Code; or

(iv) A drainage district created pursuant to chapter 29, title 42, Idaho Code; or

(v) An irrigation district created pursuant to title 43, Idaho Code; or

(vi) A state grazing board created by section 57-1204, Idaho Code; or

(vii) A water measurement district created pursuant to section 42-705 or 42-706, Idaho Code; or

(viii) A ground water management district created pursuant to chapter 51, title 42, Idaho Code.

(k) "Agency of the state of Idaho" shall mean an office or organization created by the constitution or statutes of this state and constituting a component part of the executive, judicial or legislative branch of the government of this state.

(l) "Volunteer fire department" means an entity exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code and which primarily provides fire protection or fire prevention on a not-for-profit basis to surrounding residents.

(m) "Licensed emergency medical service agency" means an emergency medical service (EMS) licensed by the EMS bureau of the department of health and welfare and which is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code and which provides emergency medical services on a not-for-profit basis to surrounding residents.

(n) "Qualifying senior citizen center" means an entity exempt from income tax pursuant to section 501(c)(3) of the Internal Revenue Code and which is a community facility for the organization and provision of a broad spectrum of services, which shall include provision of health, including mental health, social, nutritional, and educational services and the provision of facilities for recreational activities for older individuals.

(o) "Museum" means a public institution or an entity exempt from income tax pursuant to section 501(c)(3) of the Internal Revenue Code, which

stores, preserves and exhibits objects of art, history, science or other objects of historical, educational or cultural value on a permanent basis in a building, portion of a building or outdoor location and which provides museum services to the public on a regular basis.

(3) The exemption granted by subsection (1) (f) of this section does not include any association or other organization whose members are political subdivisions or state agencies unless the organization is expressly created under the joint powers provision of sections 67-2328 through 67-2333, Idaho Code.

(4) The exemptions granted by subsection (1) of this section do not include the use of tangible personal property by a contractor used to improve real property of an exempt entity when such use is within the definition provided by section 63-3615(b), Idaho Code, whether the use tax liability is included in a contract total or stated separately in a contract.

(5) There is exempted from the taxes imposed in this chapter the renting of a place to sleep to an individual by the Idaho Ronald McDonald House.

Approved March 19, 2018

CHAPTER 112
(H.B. No. 430)

AN ACT

RELATING TO ADDRESS CONFIDENTIALITY FOR VICTIMS OF VIOLENCE; AMENDING SECTION 19-5701, IDAHO CODE, TO REVISE LANGUAGE REGARDING THE PURPOSE; AMENDING SECTION 19-5702, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 19-5703, IDAHO CODE, TO REVISE PROVISIONS REGARDING WHEN AN APPLICANT IS ENTERED INTO THE ADDRESS CONFIDENTIALITY PROGRAM; AND AMENDING SECTION 19-5705, IDAHO CODE, TO PROVIDE THAT THE OFFICE OF THE SECRETARY OF STATE SHALL FORWARD ALL FIRST CLASS, PRIORITY AND OTHER MAIL AS DEEMED NECESSARY BY THE SECRETARY OF STATE TO THE APPROPRIATE PROGRAM PARTICIPANT.

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

SECTION 1. That Section 19-5701, Idaho Code, be, and the same is hereby amended to read as follows:

19-5701. PURPOSE. The legislature finds that persons attempting to escape from actual or threatened domestic violence, sexual assault, stalking, human trafficking or malicious harassment frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this chapter is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence, sexual assault, malicious harassment, human trafficking or stalking, to enable interagency cooperation with the secretary of state in providing address confidentiality for victims of domestic violence, sexual assault, malicious harassment, human trafficking or stalking, and to enable state and local agencies to accept a program participant's use of an address designated by the secretary of state as a substitute mailing address.

SECTION 2. That Section 19-5702, Idaho Code, be, and the same is hereby amended to read as follows:

19-5702. DEFINITIONS. Unless the context clearly requires otherwise, for purposes of this chapter, the following terms have the following meanings:

(1) "Address" means a residential street address of an individual as specified on the individual's application to be a program participant under this chapter.

(2) "Program participant" means:

~~(a) An individual who has obtained an order of protection pursuant to section 39-6306, Idaho Code, after a hearing for which the defendant in the proceeding received notice; or~~

~~(b) An individual who has obtained a certification from a prosecutor stating that the individual is the victim of a crime in which the defendant has been charged pursuant to section 18-918, 18-1506, 18-1508, 18-1508A, 18-6101, 18-7902, 18-7905 or 18-7906, Idaho Code, or in which the defendant is charged with attempt to commit any of the foregoing crimes.~~ Domestic violence" means an act pursuant to section 18-918, Idaho Code.

(3) "Human trafficking" means an act pursuant to section 18-8602, Idaho Code.

(4) "Malicious harassment" means an act pursuant to section 18-7902, Idaho Code.

(5) "Program participant" means a person certified as a program participant pursuant to section 19-5703, Idaho Code.

(6) "Sexual assault" means an act pursuant to section 18-1506, 18-1508, 18-1508A or 18-6101, Idaho Code.

(7) "Stalking" means an act pursuant to section 18-7905 or 18-7906, Idaho Code.

SECTION 3. That Section 19-5703, Idaho Code, be, and the same is hereby amended to read as follows:

19-5703. ADDRESS CONFIDENTIALITY PROGRAM -- APPLICATION -- CERTIFICATION. (1) An adult person, a parent or a guardian acting on behalf of a minor, or a guardian appointed pursuant to section 15-5-304, Idaho Code, acting on behalf of an incapacitated person, may apply to the secretary of state to have an address designated by the secretary of state serve as the person's address or the address of the minor or incapacitated person. The secretary of state shall approve an application if it is filed in the manner and on the form prescribed by the secretary of state and if it contains:

(a) A sworn statement by the applicant that the applicant has good reason to believe:

(i) That the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, stalking, rape or malicious harassment, or any other crime listed in section 19-5702(2)(b) 19-5701, Idaho Code; and

(ii) That the applicant fears for his or her safety or his or her children's safety, or the safety of the minor or incapacitated person on whose behalf the application is made; ;

~~(b) A certified copy of a domestic protection order issued pursuant to section 39-6306, Idaho Code, or a certified statement from a prosecutor stating that the individual is a victim of crime as provided in subsection (2)(b) of section 19-5702, Idaho Code.~~

~~(c) A designation of the secretary of state as agent for purposes of service of process and for the purpose of receipt of mail; ;~~

~~(d) The mailing address where the applicant can be contacted by the secretary of state, and the telephone number or numbers where the applicant can be called by the secretary of state; ; and~~

~~(e) The address or addresses that the applicant requests not be disclosed.~~

(2) If the applicant alleges that the basis for the application is that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, sexual assault or human

trafficking, the application must be accompanied by evidence including, but not limited to, any of the following:

(a) Police, court, or other government agency records or files;

(b) Documentation from a domestic violence or sexual assault program or facility if the person is alleged to be a victim of domestic violence, sexual assault or human trafficking;

(c) Documentation from a legal, clerical, medical or other professional from whom the applicant or person on whose behalf the application is made has sought assistance in dealing with the alleged domestic violence, sexual assault or human trafficking; and

(d) A certified copy of a no contact order or a temporary or permanent civil protection order.

(3) If the applicant alleges that the basis for the application is that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of stalking or malicious harassment, the application must be accompanied by evidence including, but not limited to, any of the following:

(a) Police, court or other government agency records or files;

(b) Documentation from a legal, clerical, medical or other professional from whom the applicant or person on whose behalf the application is made has sought assistance in dealing with the alleged stalking or malicious harassment; and

(c) A certified copy of a no contact order or a temporary or permanent civil protection order.

(4) Applications shall be filed with the office of the secretary of state.

(35) Upon filing a properly completed application, the secretary of state shall certify the applicant as a program participant. Applicants shall be certified for four (4) years following the date of filing unless the certification is withdrawn or invalidated before that date. The application may be renewed at the end of four (4) years.

(46) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children, or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, shall be punishable under section 18-5414, Idaho Code, or other applicable statutes.

SECTION 4. That Section 19-5705, Idaho Code, be, and the same is hereby amended to read as follows:

19-5705. USE OF DESIGNATED ADDRESS. (1) A program participant may request that state and local agencies use the address designated by the secretary of state as his or her address. When creating a new public record, state and local agencies shall accept the address designated by the secretary of state as a program participant's substitute address, unless the agency shows that:

(a) The agency has a bona fide statutory or administrative requirement for the use of a program participant's address which would otherwise be confidential under this chapter;

(b) The program participant's address will be used only for those statutory and administrative purposes; and

(c) The agency takes reasonable precautions to protect the confidentiality of the program participant.

(2) A program participant may use the address designated by the secretary of state as his or her work address.

(3) The office of the secretary of state shall forward all first class priority and other mail as deemed necessary by the secretary of state to the appropriate program participant.

Approved March 19, 2018

CHAPTER 113
(H.B. No. 512)

AN ACT

RELATING TO DRIVER'S LICENSES; AMENDING SECTION 49-306, IDAHO CODE, TO REVISE PROVISIONS REGARDING FEES; AMENDING SECTION 49-306, IDAHO CODE, AS AMENDED BY SECTION 2, CHAPTER 216, LAWS OF 2017, TO REVISE PROVISIONS REGARDING FEES; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-306, Idaho Code, be, and the same is hereby amended to read as follows:

49-306. APPLICATION FOR DRIVER'S LICENSE, INSTRUCTION PERMIT, COMMERCIAL LEARNER'S PERMIT OR RESTRICTED SCHOOL ATTENDANCE DRIVING PERMIT. (1) Every application for any instruction permit, restricted school attendance driving permit, or for a driver's license shall be made upon a form furnished by the department and shall be verified by the applicant before a person authorized to administer oaths. Officers and employees of the department and sheriffs and their deputies are authorized to administer the oaths without charge. Every application for a permit, extension or driver's license shall be accompanied by the following fee, none of which is refundable:

(a) Class A, B, C (4-year) license with endorsements -- age 21 years and older	\$40.00
(b) Class A, B, C (3-year) license with endorsements -- age 18 to 21 years	\$30.00
(c) Class A, B, C (1-year) license with endorsements -- age 20 years	\$15.00
(d) Class D (3-year) license -- under age 18 years	\$25.00
(e) Class D (3-year) license -- age 18 to 21 years	\$25.00
(f) Class D (1-year) license -- age 17 years or age 20 years	\$15.00
(g) Four-year Class D license -- age 21 years and older	\$30.00
(h) Eight-year Class D license -- age 21 to 63 years	\$55.00
(i) Commercial learner's permit	\$29.00
(j) Class D instruction permit or supervised instruction permit	\$15.00
(k) Duplicate driver's license or permit issued under section 49-318, Idaho Code	\$15.00
(l) Driver's license extension issued under section 49-319, Idaho Code	\$10.00
(m) License classification change (upgrade)	\$25.00
(n) Endorsement addition	\$15.00
(o) Class A, B, C skills tests not more than	\$200.00
(p) Class D skills test <u>not more than</u>	\$2435.00
(q) Motorcycle endorsement skills test <u>not more than</u>	\$1025.00
(r) Knowledge test	\$ 3.00
(s) Seasonal driver's license	\$39.00
(t) One time motorcycle "M" endorsement	\$15.00

- (u) Motorcycle endorsement instruction permit \$15.00
- (v) Restricted driving permit or restricted school attendance
driving permit \$60.00

(2) Every application shall state the true and full name, date of birth, sex, declaration of Idaho residency, Idaho residence address and mailing address, if different, of the applicant, height, weight, hair color, and eye color, and the applicant's social security number as verified by the social security administration. If an applicant has submitted an application pursuant to the provisions of chapter 58, title 19, Idaho Code, then the applicant may state, in his or her application pursuant to this section, the applicant's alternative Idaho mailing address in place of his or her Idaho residence address and mailing address. Notwithstanding the provisions of section 49-303(13), Idaho Code, an applicant for a nondomiciled class A, B or C driver's license or nondomiciled commercial learner's permit having residency in a state that is prohibited from issuing class A, B or C driver's licenses or commercial learner's permits, as provided in 49 CFR 384, is excepted from providing proof of Idaho residency and an Idaho mailing address.

(a) The requirement that an applicant provide a social security number as verified by the social security administration shall apply only to applicants who have been assigned a social security number.

(b) An applicant who has not been assigned a social security number shall:

- (i) Present written verification from the social security administration that the applicant has not been assigned a social security number; and
- (ii) Submit a birth certificate, passport or other documentary evidence issued by an entity other than a state or the United States; and
- (iii) Submit such proof as the department may require that the applicant is lawfully present in the United States.

A driver's license, commercial learner's permit or any instruction permit issued on and after January 1, 1993, shall not contain an applicant's social security number. Applications on file shall be exempt from disclosure except as provided in sections 49-202, 49-203, 49-203A and 49-204, Idaho Code.

(c) Every application for a class A, B or C license shall state where the applicant has been licensed for the preceding ten (10) years and under which of the following driving categories the applicant will operate:

- (i) Non-excepted Interstate. The applicant operates or expects to operate in interstate commerce, and is required to provide a medical examiner's certificate;
- (ii) Excepted Interstate. The applicant operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted by the federal motor carrier safety administration from all or parts of the qualification requirements of federal motor carrier safety regulation 49, part 391, and is therefore not required to provide a medical examiner's certificate;
- (iii) Non-excepted Intrastate. The applicant operates only in intrastate commerce and is subject to and meets all Idaho driver qualification requirements and the applicable parts of federal motor carrier safety regulation 49, part 391, and is required to provide a medical examiner's certificate; or
- (iv) Excepted Intrastate. The applicant operates in intrastate commerce, but engages exclusively in exempted transportation or operations as listed in section 67-2901B(2), Idaho Code, and the applicable parts of federal motor carrier safety regulation 49, part 391, and is therefore not required to provide a medical examiner's certificate.

All applications shall also state whether the applicant has previously been licensed as a driver, and if so, when and by what state or country, and whether a driver's license or privileges have ever been suspended, revoked, denied, disqualified, canceled or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, denial, disqualification, cancellation or refusal and the applicant's oath that all information is correct as signified by the applicant's signature.

(d) The applicant must submit proof of identity acceptable to the examiner or the department and date of birth as set forth in a certified copy of his birth certificate. When a certified copy of his birth certificate or a delayed birth certificate is impossible to obtain from a vital statistics agency, another government issued document may be submitted that provides satisfactory evidence of a person's full legal name and date of birth acceptable to the examiner or the department.

(e) Every applicant for a class A, B or C driver's license or commercial learner's permit shall provide proof of United States citizenship or lawful permanent residency in the United States upon application for issuance, transfer, upgrade or renewal, unless the applicant's driving record already contains documentation confirming United States citizenship or lawful permanent residency. Every applicant for a nondomiciled class A, B or C driver's license or commercial learner's permit domiciled in a foreign country must provide an unexpired employment authorization document issued by the department of homeland security or an unexpired foreign passport accompanied by an approved I-94 form documenting the applicant's most recent admittance into the United States.

(f) Individuals required to register in compliance with section 3 of the federal military selective service act, 50 U.S.C. App. 451 et seq., as amended, shall be provided an opportunity to fulfill such registration requirements in conjunction with an application for a driver's license, commercial learner's permit or instruction permit. Any registration information so supplied shall be transmitted by the department to the selective service system.

(3) Whenever an application is received from a person previously licensed in another jurisdiction, the department shall request a copy of the driver's record from the other jurisdiction and shall contact the national driver register. When received, the driver's record from the previous jurisdiction shall become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance.

(4) Whenever the department receives a request for a driver's record from another licensing jurisdiction, the record shall be forwarded without charge.

(5) The department shall contact and notify the commercial driver license information system of the proposed application for a class A, B or C driver's license or commercial learner's permit to ensure identification of the person and to obtain clearance to issue the license.

(6) When the fees required under this section are collected by a county officer, they shall be paid over to the county treasurer not less often than monthly, who shall immediately:

(a) Deposit an amount equal to five dollars (\$5.00) from each driver's license except an eight-year class D license, or any class D instruction permit application fees, application for a duplicate driver's license or permit, classification change, seasonal driver's license and additional endorsement, and ten dollars (\$10.00) from each eight-year class D driver's license, in the current expense fund; and

(b) Deposit two dollars and fifty cents (\$2.50) from each motorcycle endorsement and motorcycle endorsement instruction permit fee in the current expense fund; and

(c) Deposit an amount equal to three dollars (\$3.00) from each fee for a knowledge test in the current expense fund; and

(d) Deposit an amount equal up to ~~ten~~ twenty-five dollars (~~\$1025.00~~) from each fee for a motorcycle endorsement skills test in the current expense fund; provided however, if a contractor administers the skills test he shall be entitled to the ~~ten-dollar~~ (~~\$10.00~~) entire fee; and

(e) Remit the remainder to the state treasurer; and

(f) Deposit ~~seventeen~~ up to twenty-eight dollars and fifty cents (~~\$1728.50~~) from each fee for a class D skills test into the county current expense fund, unless the test is administered by a department-approved contractor, in which case the contractor shall be entitled to seventeen up to twenty-eight dollars and fifty cents (~~\$1728.50~~) of each fee.

(7) When the fees required under this section are collected by a state officer or agency, they shall be paid over to the state treasurer.

(8) The state treasurer shall distribute the moneys received from fees imposed by the provisions of this section, whether collected by a county officer or by a state officer or agency as follows:

(a) Two dollars (\$2.00) of each fee for a four-year driver's license or seasonal driver's license, and four dollars (\$4.00) of each fee for an eight-year class D driver's license, and one dollar and fifty cents (\$1.50) of each fee charged for driver's licenses pursuant to subsections (1) (b), (d) and (e) of this section, and fifty cents (50¢) of each fee charged for driver's licenses pursuant to subsections (1) (c) and (f) of this section, shall be deposited in the emergency medical services fund II created in section 56-1018A, Idaho Code, and four dollars (\$4.00) of each fee charged pursuant to subsections (1) (a), (g) and (s) of this section and eight dollars (\$8.00) of each fee charged pursuant to subsection (1) (h) of this section and three dollars (\$3.00) of each fee for driver's licenses pursuant to subsections (1) (b), (d) and (e) of this section, and one dollar (\$1.00) of each fee charged for driver's licenses pursuant to subsections (1) (c) and (f) of this section shall be deposited in the emergency medical services fund III created in section 56-1018B, Idaho Code; and

(b) Twenty-eight dollars (\$28.00) of each fee for a seasonal or class A, B or C driver's license, and nineteen dollars and fifty cents (\$19.50) of each fee charged for a license pursuant to subsection (1) (b) of this section, and eight dollars and sixteen cents (\$8.16) of each fee charged for a license pursuant to subsection (1) (c) of this section shall be deposited in the state highway account; and

(c) Twenty dollars (\$20.00) of each fee for a commercial learner's permit or driver's license classification change shall be deposited in the state highway account; and

(d) Four dollars (\$4.00) of each fee for a commercial learner's permit shall be deposited in the emergency medical services fund III created in section 56-1018B, Idaho Code; and

(e) Ten dollars (\$10.00) of each fee for a duplicate seasonal or class A, B or C driver's license, class A, B or C driver's license extension, or additional endorsement shall be deposited in the state highway account; and

(f) Seven dollars and fifty cents (\$7.50) of each fee for a motorcycle endorsement and motorcycle endorsement instruction permit shall be deposited in the state highway account; and

(g) Five dollars and thirty cents (\$5.30) of each fee for a four-year class D driver's license, and ten dollars and sixty cents (\$10.60) of each fee for an eight-year class D driver's license, and four dollars (\$4.00) of each fee charged for a license pursuant to subsections (1) (d) and (e) of this section, and one dollar and thirty-three cents (\$1.33)

of each fee charged for a license pursuant to subsection (1) (f) of this section shall be deposited in the driver training fund; and

(h) Twelve dollars and seventy cents (\$12.70) of each fee for a four-year class D driver's license, and twenty dollars and forty cents (\$20.40) of each fee for an eight-year class D driver's license, and ten dollars and fifty cents (\$10.50) of each fee charged for a license pursuant to subsections (1) (d) and (e) of this section, and six dollars and eighty-three cents (\$6.83) of each fee charged for a license pursuant to subsection (1) (f) of this section shall be deposited in the highway distribution fund; and

(i) Two dollars and sixty cents (\$2.60) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the driver training fund; and

(j) Seven dollars and forty cents (\$7.40) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the highway distribution fund; and

(k) Ten dollars (\$10.00) of each fee for a class A, B or C skills test shall be deposited in the state highway account; and

(l) One dollar (\$1.00) of each fee for a class A, B, C or four-year D driver's license, and two dollars (\$2.00) of each fee for an eight-year class D driver's license, and one dollar (\$1.00) of each fee charged for a license pursuant to subsections (1) (b), (d) and (e) of this section, and thirty-four cents (34¢) of each fee charged for a license pursuant to subsections (1) (c) and (f) of this section shall be deposited in the motorcycle safety program fund established in section 33-4904, Idaho Code; and

(m) Six dollars and fifty cents (\$6.50) of each fee for a class D skills test shall be deposited into the state highway account.

(9) The contractor administering a class A, B or C skills test shall be entitled to not more than one hundred ninety dollars (\$190) of the skills test fee. A contractor administering a class A, B or C skills test may collect an additional fee for the use of the contractor's vehicle for the skills test.

(10) Sixty dollars (\$60.00) of each restricted driving permit and each restricted school attendance driving permit shall be deposited in the state highway account.

(11) The department may issue seasonal class B or C driver's licenses to drivers who are employees of agri-chemical businesses, custom harvesters, farm retail outlets and suppliers, and livestock feeders that:

(a) Will only be valid for driving commercial vehicles that normally require class B or C commercial driver's licenses;

(b) Will be valid for seasonal periods that begin on the date of issuance and that are not to exceed one hundred eighty (180) days in a twelve (12) month period;

(c) May only be obtained twice in a driver's lifetime;

(d) Are valid only within a one hundred fifty (150) mile radius of the place of business or farm being serviced; and

(e) Will be valid only in conjunction with valid Idaho class D driver's licenses.

(12) The department may issue seasonal class B or C driver's licenses to drivers who:

(a) Have not violated the single license provisions of applicable federal regulations;

(b) Have not had any license suspensions, revocations or cancellations;

(c) Have not had any convictions in any vehicle for any offense listed in section 49-335(1) or (2), Idaho Code, or any one (1) serious traffic offense;

- (d) Have at least one (1) year of driving experience with a class D or equivalent license in any type motor vehicle; and
- (e) Are at least sixteen (16) years old.

SECTION 2. That Section 49-306, Idaho Code, as amended by Section 2, Chapter 216, Laws of 2017, be, and the same is hereby amended to read as follows:

49-306. APPLICATION FOR DRIVER'S LICENSE, INSTRUCTION PERMIT, COMMERCIAL LEARNER'S PERMIT OR RESTRICTED SCHOOL ATTENDANCE DRIVING PERMIT. (1) Every application for any instruction permit, restricted school attendance driving permit, or for a driver's license shall be made upon a form furnished by the department and shall be verified by the applicant before a person authorized to administer oaths. Officers and employees of the department and sheriffs and their deputies are authorized to administer the oaths without charge. Every application for a permit, extension or driver's license shall be accompanied by the following fee, none of which is refundable:

(a) Class A, B, C (4-year) license with endorsements -- age 21 years and older	\$40.00
(b) Class A, B, C (3-year) license with endorsements -- age 18 to 21 years	\$30.00
(c) Class A, B, C (1-year) license with endorsements -- age 20 years	\$15.00
(d) Class D (3-year) license -- under age 18 years	\$25.00
(e) Class D (3-year) license -- age 18 to 21 years	\$25.00
(f) Class D (1-year) license -- age 17 years or age 20 years	\$15.00
(g) Four-year Class D license -- age 21 years and older	\$30.00
(h) Eight-year Class D license -- age 21 to 63 years	\$55.00
(i) Commercial learner's permit	\$29.00
(j) Class D instruction permit or supervised instruction permit	\$15.00
(k) Duplicate driver's license or permit issued under section 49-318, Idaho Code	\$15.00
(l) Driver's license extension issued under section 49-319, Idaho Code	\$10.00
(m) License classification change (upgrade)	\$25.00
(n) Endorsement addition	\$15.00
(o) Class A, B, C skills tests not more than	\$200.00
(p) Class D skills test <u>not more than</u>	\$2435.00
(q) Motorcycle endorsement skills test <u>not more than</u>	\$1025.00
(r) Knowledge test	\$ 3.00
(s) Seasonal driver's license	\$39.00
(t) One time motorcycle "M" endorsement	\$15.00
(u) Motorcycle endorsement instruction permit	\$15.00
(v) Restricted driving permit or restricted school attendance driving permit	\$60.00

(2) A person who applies for a driver's license or a driver's license renewal may designate a voluntary contribution of two dollars (\$2.00) for the purpose of promoting and supporting organ donation. Such a contribution shall be treated as a voluntary contribution to the organ donation contribution fund created in section 49-2447, Idaho Code, and not as a driver's license fee.

(3) Every application shall state the true and full name, date of birth, sex, declaration of Idaho residency, Idaho residence address and mailing address, if different, of the applicant, height, weight, hair color, and eye color, and the applicant's social security number as verified by the social security administration. If an applicant has submitted an application pursuant to the provisions of chapter 58, title 19, Idaho Code, then the ap-

plicant may state, in his or her application pursuant to this section, the applicant's alternative Idaho mailing address in place of his or her Idaho residence address and mailing address. Notwithstanding the provisions of section 49-303(13), Idaho Code, an applicant for a nondomiciled class A, B or C driver's license or nondomiciled commercial learner's permit having residency in a state that is prohibited from issuing class A, B or C driver's licenses or commercial learner's permits, as provided in 49 CFR 384, is excepted from providing proof of Idaho residency and an Idaho mailing address.

(a) The requirement that an applicant provide a social security number as verified by the social security administration shall apply only to applicants who have been assigned a social security number.

(b) An applicant who has not been assigned a social security number shall:

(i) Present written verification from the social security administration that the applicant has not been assigned a social security number; and

(ii) Submit a birth certificate, passport or other documentary evidence issued by an entity other than a state or the United States; and

(iii) Submit such proof as the department may require that the applicant is lawfully present in the United States.

A driver's license, commercial learner's permit or any instruction permit issued on and after January 1, 1993, shall not contain an applicant's social security number. Applications on file shall be exempt from disclosure except as provided in sections 49-202, 49-203, 49-203A and 49-204, Idaho Code.

(c) Every application for a class A, B or C license shall state where the applicant has been licensed for the preceding ten (10) years and under which of the following driving categories the applicant will operate:

(i) Non-excepted interstate. The applicant operates or expects to operate in interstate commerce, and is required to provide a medical examiner's certificate;

(ii) Excepted interstate. The applicant operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted by the federal motor carrier safety administration from all or parts of the qualification requirements of federal motor carrier safety regulation 49, part 391, and is therefore not required to provide a medical examiner's certificate;

(iii) Non-excepted intrastate. The applicant operates only in intrastate commerce and is subject to and meets all Idaho driver qualification requirements and the applicable parts of federal motor carrier safety regulation 49, part 391, and is required to provide a medical examiner's certificate; or

(iv) Excepted intrastate. The applicant operates in intrastate commerce, but engages exclusively in exempted transportation or operations as listed in section 67-2901B(2), Idaho Code, and the applicable parts of federal motor carrier safety regulation 49, part 391, and is therefore not required to provide a medical examiner's certificate.

All applications shall also state whether the applicant has previously been licensed as a driver, and if so, when and by what state or country, and whether a driver's license or privileges have ever been suspended, revoked, denied, disqualified, canceled or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, denial, disqualification, cancellation or refusal and the applicant's oath that all information is correct as signified by the applicant's signature.

(d) The applicant must submit proof of identity acceptable to the examiner or the department and date of birth as set forth in a certified copy of his birth certificate. When a certified copy of his birth certificate or a delayed birth certificate is impossible to obtain from a vital statistics agency, another government issued document may be submitted that provides satisfactory evidence of a person's full legal name and date of birth acceptable to the examiner or the department.

(e) Every applicant for a class A, B or C driver's license or commercial learner's permit shall provide proof of United States citizenship or lawful permanent residency in the United States upon application for issuance, transfer, upgrade or renewal, unless the applicant's driving record already contains documentation confirming United States citizenship or lawful permanent residency. Every applicant for a nondomiciled class A, B or C driver's license or commercial learner's permit domiciled in a foreign country must provide an unexpired employment authorization document issued by the department of homeland security or an unexpired foreign passport accompanied by an approved I-94 form documenting the applicant's most recent admittance into the United States.

(f) Individuals required to register in compliance with section 3 of the federal military selective service act, 50 U.S.C. App. 451 et seq., as amended, shall be provided an opportunity to fulfill such registration requirements in conjunction with an application for a driver's license, commercial learner's permit or instruction permit. Any registration information so supplied shall be transmitted by the department to the selective service system.

(4) Whenever an application is received from a person previously licensed in another jurisdiction, the department shall request a copy of the driver's record from the other jurisdiction and shall contact the national driver register. When received, the driver's record from the previous jurisdiction shall become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance.

(5) Whenever the department receives a request for a driver's record from another licensing jurisdiction, the record shall be forwarded without charge.

(6) The department shall contact and notify the commercial driver license information system of the proposed application for a class A, B or C driver's license or commercial learner's permit to ensure identification of the person and to obtain clearance to issue the license.

(7) When the fees required under this section are collected by a county officer, they shall be paid over to the county treasurer not less often than monthly, who shall immediately:

(a) Deposit an amount equal to five dollars (\$5.00) from each driver's license except an eight-year class D license, or any class D instruction permit application fees, application for a duplicate driver's license or permit, classification change, seasonal driver's license and additional endorsement, and ten dollars (\$10.00) from each eight-year class D driver's license, in the current expense fund;

(b) Deposit two dollars and fifty cents (\$2.50) from each motorcycle endorsement and motorcycle endorsement instruction permit fee in the current expense fund;

(c) Deposit an amount equal to three dollars (\$3.00) from each fee for a knowledge test in the current expense fund;

(d) Deposit an amount equal up to ~~ten~~ twenty-five dollars (~~\$10~~25.00) from each fee for a motorcycle endorsement skills test in the current expense fund; provided however, if a contractor administers the skills test he shall be entitled to the ~~ten-dollar~~ (~~\$10.00~~) entire fee;

(e) Remit the remainder to the state treasurer; and

(f) Deposit seventeen up to twenty-eight dollars and fifty cents (\$1728.50) from each fee for a class D skills test into the county current expense fund, unless the test is administered by a department-approved contractor, in which case the contractor shall be entitled to seventeen up to twenty-eight dollars and fifty cents (\$1728.50) of each fee.

(8) When the fees required under this section are collected by a state officer or agency, they shall be paid over to the state treasurer.

(9) The state treasurer shall distribute the moneys received from fees imposed by the provisions of this section, whether collected by a county officer or by a state officer or agency as follows:

(a) Two dollars (\$2.00) of each fee for a four-year driver's license or seasonal driver's license, and four dollars (\$4.00) of each fee for an eight-year class D driver's license, and one dollar and fifty cents (\$1.50) of each fee charged for driver's licenses pursuant to subsection (1) (b), (d) and (e) of this section, and fifty cents (50¢) of each fee charged for driver's licenses pursuant to subsection (1) (c) and (f) of this section, shall be deposited in the emergency medical services fund II created in section 56-1018A, Idaho Code, and four dollars (\$4.00) of each fee charged pursuant to subsection (1) (a), (g) and (s) of this section and eight dollars (\$8.00) of each fee charged pursuant to subsection (1) (h) of this section and three dollars (\$3.00) of each fee for driver's licenses pursuant to subsection (1) (b), (d) and (e) of this section, and one dollar (\$1.00) of each fee charged for driver's licenses pursuant to subsection (1) (c) and (f) of this section shall be deposited in the emergency medical services fund III created in section 56-1018B, Idaho Code;

(b) Twenty-eight dollars (\$28.00) of each fee for a seasonal or class A, B or C driver's license, and nineteen dollars and fifty cents (\$19.50) of each fee charged for a license pursuant to subsection (1) (b) of this section, and eight dollars and sixteen cents (\$8.16) of each fee charged for a license pursuant to subsection (1) (c) of this section shall be deposited in the state highway account;

(c) Twenty dollars (\$20.00) of each fee for a commercial learner's permit or driver's license classification change shall be deposited in the state highway account;

(d) Four dollars (\$4.00) of each fee for a commercial learner's permit shall be deposited in the emergency medical services fund III created in section 56-1018B, Idaho Code;

(e) Ten dollars (\$10.00) of each fee for a duplicate seasonal or class A, B or C driver's license, class A, B or C driver's license extension, or additional endorsement shall be deposited in the state highway account;

(f) Seven dollars and fifty cents (\$7.50) of each fee for a motorcycle endorsement and motorcycle endorsement instruction permit shall be deposited in the state highway account;

(g) Five dollars and thirty cents (\$5.30) of each fee for a four-year class D driver's license, and ten dollars and sixty cents (\$10.60) of each fee for an eight-year class D driver's license, and four dollars (\$4.00) of each fee charged for a license pursuant to subsection (1) (d) and (e) of this section, and one dollar and thirty-three cents (\$1.33) of each fee charged for a license pursuant to subsection (1) (f) of this section shall be deposited in the driver training fund;

(h) Twelve dollars and seventy cents (\$12.70) of each fee for a four-year class D driver's license, and twenty dollars and forty cents (\$20.40) of each fee for an eight-year class D driver's license, and ten dollars and fifty cents (\$10.50) of each fee charged for a license pursuant to subsection (1) (d) and (e) of this section, and six dollars and eighty-three cents (\$6.83) of each fee charged for a license pursuant

to subsection (1) (f) of this section shall be deposited in the highway distribution fund;

(i) Two dollars and sixty cents (\$2.60) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the driver training fund;

(j) Seven dollars and forty cents (\$7.40) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the highway distribution fund;

(k) Ten dollars (\$10.00) of each fee for a class A, B or C skills test shall be deposited in the state highway account;

(l) One dollar (\$1.00) of each fee for a class A, B, C or four-year D driver's license, and two dollars (\$2.00) of each fee for an eight-year class D driver's license, and one dollar (\$1.00) of each fee charged for a license pursuant to subsection (1) (b), (d) and (e) of this section, and thirty-four cents (34¢) of each fee charged for a license pursuant to subsection (1) (c) and (f) of this section shall be deposited in the motorcycle safety program fund established in section 33-4904, Idaho Code;

(m) Six dollars and fifty cents (\$6.50) of each fee for a class D skills test shall be deposited into the state highway account; and

(n) Each voluntary contribution of two dollars (\$2.00) as described in subsection (2) of this section, less actual administrative costs associated with collecting and transferring such contributions, shall be deposited into the organ donation contribution fund created in section 49-2447, Idaho Code.

(10) The contractor administering a class A, B or C skills test shall be entitled to not more than one hundred ninety dollars (\$190) of the skills test fee. A contractor administering a class A, B or C skills test may collect an additional fee for the use of the contractor's vehicle for the skills test.

(11) Sixty dollars (\$60.00) of each restricted driving permit and each restricted school attendance driving permit shall be deposited in the state highway account.

(12) The department may issue seasonal class B or C driver's licenses to drivers who are employees of agri-chemical businesses, custom harvesters, farm retail outlets and suppliers, and livestock feeders that:

(a) Will only be valid for driving commercial vehicles that normally require class B or C commercial driver's licenses;

(b) Will be valid for seasonal periods that begin on the date of issuance and that are not to exceed one hundred eighty (180) days in a twelve (12) month period;

(c) May only be obtained twice in a driver's lifetime;

(d) Are valid only within a one hundred fifty (150) mile radius of the place of business or farm being serviced; and

(e) Will be valid only in conjunction with valid Idaho class D driver's licenses.

(13) The department may issue seasonal class B or C driver's licenses to drivers who:

(a) Have not violated the single license provisions of applicable federal regulations;

(b) Have not had any license suspensions, revocations or cancellations;

(c) Have not had any convictions in any vehicle for any offense listed in section 49-335(1) or (2), Idaho Code, or any one (1) serious traffic offense;

(d) Have at least one (1) year of driving experience with a class D or equivalent license in any type motor vehicle; and

(e) Are at least sixteen (16) years old.

SECTION 3. Section 2 of this act shall be in full force and effect when the Idaho Transportation Department submits to the Secretary of State in writing that the Idaho Transportation Department's information technology system has been updated to support the Organ Donation Contribution Fund.

Approved March 19, 2018

CHAPTER 114
(H.B. No. 628)

AN ACT

RELATING TO THE APPROPRIATION TO THE IDAHO STATE POLICE FOR FISCAL YEAR 2018; APPROPRIATING ADDITIONAL MONEYS TO THE IDAHO STATE POLICE IN THE BRAND INSPECTION PROGRAM FOR FISCAL YEAR 2018; 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 285, Laws of 2017, and any other appropriation provided for by law, there is hereby appropriated to the Idaho State Police in the Brand Inspection Program \$86,400 from the General Fund to be expended for operating expenditures for the period July 1, 2017, through June 30, 2018.

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, 2018

CHAPTER 115
(H.B. No. 627)

AN ACT

RELATING TO THE APPROPRIATION TO THE DIVISION OF BUILDING SAFETY FOR FISCAL YEAR 2018; APPROPRIATING ADDITIONAL MONEYS TO THE DIVISION OF BUILDING SAFETY FOR FISCAL YEAR 2018; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 2, Chapter 164, Laws of 2017, and any other appropriation provided for by law, there is hereby appropriated from the Federal Grant Fund to the Division of Building Safety the following amounts to be expended for the designated expense classes for the period July 1, 2017, through June 30, 2018:

FOR:

Personnel Costs	\$24,200
Operating Expenditures	<u>\$36,000</u>
TOTAL	\$60,200

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 19, 2018

CHAPTER 116
(H.B. No. 521)

AN ACT

RELATING TO MOTOR VEHICLE SERVICE CONTRACTS; REPEALING CHAPTER 28, TITLE 49, IDAHO CODE, RELATING TO MOTOR VEHICLE SERVICE CONTRACTS; AMENDING TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 62, TITLE 41, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE TERMS, TO PROVIDE SERVICE CONTRACT REIMBURSEMENT POLICY REQUIREMENTS, TO SET FORTH PROVISIONS ASSOCIATED WITH THE SALE OF MOTOR VEHICLE SERVICE CONTRACTS, TO PROVIDE FOR MOTOR VEHICLE SERVICE CONTRACT REQUIREMENTS, TO PROHIBIT CERTAIN ACTS, TO PROVIDE RECORDKEEPING REQUIREMENTS, TO PROVIDE FOR LICENSING, TO PROVIDE THAT THE PROVISIONS OF THE IDAHO INSURANCE GUARANTY ASSOCIATION ACT SHALL NOT APPLY TO ANY MOTOR VEHICLE SERVICE CONTRACT, MECHANICAL BREAKDOWN INSURANCE OR MOTOR VEHICLE SERVICE CONTRACT LIABILITY INSURANCE POLICY AND TO PROVIDE FOR ENFORCEMENT AND PENALTIES; AND AMENDING SECTION 41-114A, IDAHO CODE, TO REVISE A CODE REFERENCE.

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

SECTION 1. That Chapter 28, Title 49, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 62, Title 41, Idaho Code, and to read as follows:

CHAPTER 62
IDAHO MOTOR VEHICLE SERVICE CONTRACT ACT

41-6201. SHORT TITLE. The provisions of this chapter shall be known and may be cited as the "Idaho Motor Vehicle Service Contract Act."

41-6202. LEGISLATIVE INTENT. (1) The legislature finds and declares that a considerable number of Idaho citizens use contracts to provide necessary services for the repair and servicing of motor vehicles purchased and used within the state.

(2) It is the intent of the legislature that this act provides for state of Idaho regulation of motor vehicle service contracts offered for sale in the state by any person other than the motor vehicle manufacturer or its affiliates and subsidiaries.

(3) It is also the intent of the legislature that this act shall not apply to:

(a) The customary and usual performance guarantees or warranties offered at no additional charge by motor vehicle manufacturers, or their affiliates and subsidiaries, regarding the sale of motor vehicles;

(b) Maintenance agreements; or

(c) Theft protection programs or theft protection program warranties.

Such products identified in this subsection shall not be subject to the provisions of title 41, Idaho Code, unless expressly made applicable.

41-6203. DEFINITIONS. As used in this chapter:

- (1) "Administrator" means the person responsible for the administration of the motor vehicle service contract;
- (2) "Director" means the director of the Idaho department of insurance;
- (3) "Incidental costs" means expenses specified in a theft protection program warranty that are incurred by the warranty holder due to the failure of a theft protection program to perform as provided in the contract. Incidental costs may include, without limitation, insurance policy deductibles, rental vehicle charges, the difference between the actual value of the stolen vehicle at the time of theft and the cost of a replacement vehicle, sales taxes, registration fees, transaction fees and mechanical inspection fees. Incidental costs may be reimbursed in either a fixed amount specified in the theft protection program warranty or by use of a formula itemizing specific incidental costs incurred by the warranty holder;
- (4) "Liability insurance policy" means a policy of insurance providing coverage for all contractual obligations incurred by a motor vehicle service contract provider under the terms of a motor vehicle service contract issued or sold by the motor vehicle service contract provider;
- (5) "Maintenance agreement" means a contract of limited duration that provides scheduled maintenance only;
- (6) "Mechanical breakdown insurance" means a policy, contract or agreement that undertakes to perform or provide repair or replacement service, or indemnification for such service, for the operational or structural failure of a motor vehicle due to defect in materials or workmanship or normal wear and tear and that is issued by an insurance company authorized to do business in this state;
- (7) "Motor vehicle service contract" means a contract or agreement given for separately stated consideration that undertakes to perform or provide repair or replacement service, or indemnification for such service, for the operational or structural failure of a motor vehicle due to defect in materials or workmanship or normal wear and tear but shall not include mechanical breakdown insurance. A motor vehicle service contract may provide full or partial reimbursement for other expenses incurred by the motor vehicle service contract holder as a direct and proximate result of an operational or structural failure or reduced operating efficiency if included in the contract coverage, including but not limited to towing, rental car, lodging, motor club, maintenance benefits, roadside assistance and meal expenses. An agreement whereby an employer or a third party contracted by the employer provides mileage reimbursement and incidental maintenance and repairs to its employees for personal vehicles used for business purposes, which agreement shall not be considered a motor vehicle service contract or a contract of insurance. "Motor vehicle service contract" also means a contract or agreement that provides one (1) or more of the following:
 - (a) The repair or replacement of tires, wheels or tires and wheels on a motor vehicle damaged as a result of coming into contact with road hazards;
 - (b) The removal of dents, dings or creases on a motor vehicle that can be repaired using the process of paintless dent removal without affecting the existing paint finish and without replacing vehicle body panels, sanding, bonding or painting;
 - (c) The repair of chips or cracks in or the replacement of motor vehicle windshields as a result of damage caused by road hazards; or
 - (d) The replacement of a motor vehicle key or key fob in the event that the key or key fob becomes inoperable or is lost or stolen;
- (8) "Motor vehicle service contract holder" means a person who purchases a motor vehicle service contract or is a permitted transferee;
- (9) "Motor vehicle service contract provider" means a person who is contractually obligated to a motor vehicle service contract holder under the terms of a motor vehicle service contract;

(10) "Person" means an individual, company, association, organization, partnership, business trust, corporation or any other form of legal entity;

(11) "Road hazard" means a hazard encountered while driving a motor vehicle and may include, but not be limited to, potholes, rocks, wood debris, metal parts, glass, plastic, curbs or composite scraps;

(12) "Theft protection program" means a device or system that:

(a) Is installed on or applied to a motor vehicle;

(b) Is designed to prevent loss or damage to a motor vehicle from theft;

and

(c) Includes a theft protection program warranty.

The term shall include, but not be limited to, alarm systems, body part marking products, steering locks, window etch products, pedal and ignition locks, fuel and ignition kill switches, and electronic, radio and satellite tracking devices. The term does not include fuel additives, oil additives or other chemical products applied to the engine, transmission or fuel system, or to interior or exterior surfaces of a motor vehicle;

(13) "Theft protection program warranty" means a written agreement by a warrantor that provides, if a theft protection program fails to prevent loss or damage to a motor vehicle from theft, the warrantor will pay to or on behalf of the warranty holder specified incidental costs as a result of the failure of the theft protection program to perform pursuant to the terms of the theft protection program warranty.

41-6204. SERVICE CONTRACT REIMBURSEMENT POLICY REQUIREMENTS. (1) The following are mandatory insurance provisions:

(a) No motor vehicle service contract shall be issued, sold or offered for sale in this state unless the motor vehicle service contract provider is insured under a service contract liability policy issued by an insurer admitted to do business in this state or as otherwise provided in subsection (2) of this section. The policy shall provide that the insurer will pay to or on behalf of the motor vehicle service contract provider all sums the motor vehicle service contract provider is legally obligated to pay according to the motor vehicle service contract provider's contractual obligations under the motor vehicle service contracts issued or sold by the motor vehicle service contract provider; and

(b) All service contract liability policies insuring motor vehicle service contracts issued, sold or offered for sale in this state must conspicuously state that, upon failure of the motor vehicle service contract provider to perform under the contract, the issuer of the policy shall pay on behalf of the provider any sums that the provider is legally obligated to perform according to the provider's contractual obligations under the motor vehicle service contracts issued or sold by the provider.

(2) The service contract liability policy shall be obtained from an insurer authorized, registered or otherwise permitted to transact insurance in this state or a surplus lines insurer meeting the requirements of chapter 12, title 41, Idaho Code, and which insurer or surplus lines insurer meets one (1) of the following requirements:

(a) (i) Maintain surplus as to policyholders and paid-in capital of at least fifteen million dollars (\$15,000,000); and

(ii) Annually file copies of the insurer's audited financial statements, its national association of insurance commissioners (NAIC) annual statement and the actuarial certification required by and filed in the insurer's state of domicile; or

(b) (i) Maintain surplus as to policyholders and paid-in capital of less than fifteen million dollars (\$15,000,000) but at least equal to ten million dollars (\$10,000,000);

- (ii) Maintain a ratio of net written premiums, wherever written, to surplus as to policyholders and paid-in capital of not greater than three (3) to one (1); and
- (iii) Annually file copies of the insurer's audited financial statements, its NAIC annual statement and the actuarial certification required by and filed in the insurer's state of domicile.

(3) Premiums are defined as those funds paid by or on behalf of the motor vehicle service contract provider to the liability insurance policy issuer for such risks covered under such liability insurance policy. Such premiums or the method of developing such premiums shall be filed with the director of the department of insurance for approval.

(4) The issuer of a service contract liability policy may not cancel the policy until a thirty (30) days' advance notice of cancellation has been mailed or delivered to each motor vehicle service contract provider. The cancellation of a service contract liability policy shall not reduce the insurer's responsibility for motor vehicle service contracts issued by motor vehicle service contract providers prior to the date of the cancellation.

41-6205. MOTOR VEHICLE SERVICE CONTRACT PROVISIONS. The following provisions shall apply to the sale of motor vehicle service contracts in the state:

(1) A motor vehicle service contract may not be issued, sold or offered for sale in this state unless the contract contains a statement in substantially the following form: "Obligations of the motor vehicle service contract provider under this motor vehicle service contract are guaranteed under a service contract liability policy. Should the motor vehicle service contract provider fail to pay or provide service on any claim within sixty (60) days after proof of loss has been filed, the motor vehicle service contract holder is entitled to make a claim directly against the insurance company." The motor vehicle service contract shall also conspicuously state the name and address and a toll-free claim service number of the insurer.

(2) The motor vehicle service contract must identify the motor vehicle service contract provider, the seller and the motor vehicle service contract holder.

(3) The motor vehicle service contract must conspicuously state the total purchase price of the motor vehicle service contract.

(4) If prior approval of repair work is required, the motor vehicle service contract must conspicuously state the procedure for obtaining prior approval and for making a claim, including a toll-free telephone number for claim service and a procedure for obtaining reimbursement for emergency repairs performed outside of normal business hours.

(5) The motor vehicle service contract must conspicuously state the existence of any deductible amount.

(6) The motor vehicle service contract must specify the merchandise and services to be provided and any limitations, exceptions or exclusions. Any preexisting conditions clause must specifically state which preexisting conditions are excluded from coverage.

(7) The motor vehicle service contract must state any terms, restrictions or conditions governing the transferability of the service contract.

(8) The motor vehicle service contract must state the terms, restrictions or conditions governing cancellation of the service contract by either the motor vehicle service contract holder or motor vehicle service contract provider.

(9) A motor vehicle service contract may not be issued, sold or offered for sale in this state unless the contract contains a statement in substantially the following form: "Coverage afforded under this motor vehicle service contract is not guaranteed by the Idaho insurance guaranty association."

(10) No motor vehicle service contract may be issued, sold or offered in this state unless the service contract conspicuously states that the motor vehicle service contract holder is allowed to cancel the service contract:

(a) Within thirty (30) days of its purchase if no claim has been made and shall receive a full refund of the service contract retail price, less any cancellation fee stated in the service contract not exceeding fifty dollars (\$50.00); or

(b) At any other time and shall receive a pro rata refund of the service contract retail price for the unexpired term of the service contract, based on the number of the lapsed months, miles or such other measure that is clearly disclosed in the service contract, less any cancellation fees stated in the service contract not exceeding fifty dollars (\$50.00).

41-6206. MOTOR VEHICLE SERVICE CONTRACT REQUIREMENTS. Before the sale of any motor vehicle service contract, the motor vehicle service contract provider shall give written notice to the customer clearly disclosing that the purchase of the contract is not required either to purchase or to obtain financing for a motor vehicle. No motor vehicle service contract may be used in this state by any motor vehicle service contract provider if the contract:

(1) In any respect violates, or does not comply with, the laws of this state;

(2) Contains or incorporates by reference any inconsistent, ambiguous or misleading clauses or any exceptions and conditions that affect the risk assumed or to be assumed in the general coverage of the contract;

(3) Has any title, heading or other indication of its provisions that is misleading; or

(4) Is printed or otherwise reproduced in any manner that renders any material provision of the contract substantially illegible.

41-6207. PROHIBITED ACTS. (1) A motor vehicle service contract provider may not use in its name, contracts or literature:

(a) Any of the words "insurance," "casualty," "surety," "mutual" or any other words descriptive of the insurance, casualty or surety business; or

(b) A name deceptively similar to the name or description of any insurance or surety corporation, or any other motor vehicle service contract provider.

(2) A motor vehicle service contract provider, its representative or any other person may not make, permit or allow to be made any false, deceptive or misleading statement, or may not deliberately omit any material statement that would be considered misleading if omitted, in connection with the sale, offer to sell or advertisement of a motor vehicle service contract.

(3) It shall be unlawful for any company to directly or indirectly represent in any manner, whether by written solicitation, advertisement or telemarketing, a false, deceptive or misleading statement with regard to:

(a) Such company's affiliation with a motor vehicle manufacturer, recreational vehicle manufacturer or dealer;

(b) Such company's possession of information regarding a motor vehicle owner's current motor vehicle manufacturer's or recreational vehicle manufacturer's original equipment warranty;

(c) All indications that such company's records show that a motor vehicle or recreational vehicle owner's current motor vehicle manufacturer's or recreational vehicle manufacturer's original equipment warranty is nearing or past expiration;

(d) A requirement that such motor vehicle or recreational vehicle owner register for a new motor vehicle service contract with such company to maintain coverage under the motor vehicle or recreational vehicle

owner's current service contract or manufacturer's original equipment warranty.

41-6208. RECORDKEEPING REQUIREMENTS. (1) All motor vehicle service contract providers shall keep accurate accounts, books and records concerning transactions regulated under the provisions of this act. A motor vehicle service contract provider's accounts, books and records shall include:

- (a) Copies of all motor vehicle service contracts issued;
 - (b) The name and address of each motor vehicle service contract holder;
- and
- (c) Claim files.

(2) All motor vehicle service contract providers shall retain all records pertaining to each motor vehicle service contract holder for at least three (3) years after the specified period of coverage has expired. It shall be the responsibility of the insurer issuing the liability policy to make an examination at least every two (2) years of each motor vehicle service contract provider that they insure to assure that each provider is in compliance with the recordkeeping requirements.

41-6209. LICENSING. Motor vehicle service contract providers, and persons marketing, administering, selling or offering to sell motor vehicle service contracts for motor vehicle service contract providers, are not required to obtain a license under title 41, Idaho Code. A motor vehicle service contract provider shall not be subject to regulation under any provision of title 41, Idaho Code, not made expressly applicable to it.

41-6210. GUARANTY. The provisions of the Idaho insurance guaranty association act, chapter 36, title 41, Idaho Code, shall not apply to any motor vehicle service contract, mechanical breakdown insurance or motor vehicle service contract liability insurance policy, as defined in this chapter, and no claim under any motor vehicle service contract, mechanical breakdown insurance or motor vehicle service contract liability insurance policy shall be deemed to be a "covered claim" within the scope of section 41-3605(7), Idaho Code, as to which the Idaho insurance guaranty association has any obligation under section 41-3608, Idaho Code, or other provisions of chapter 36, title 41, Idaho Code.

41-6211. ENFORCEMENT AND PENALTIES. (1) The director may conduct examinations of motor vehicle service contract providers, administrators, insurers or other persons to enforce the provisions of this chapter and to protect motor vehicle service contract holders in this state. Upon request of the director, the provider shall make available to the director all accounts, books and records concerning motor vehicle service contracts sold or issued by the provider that are necessary to enable the director to reasonably determine compliance or noncompliance with this chapter.

(2) The following provisions of chapter 2, title 41, Idaho Code, generally addressing the director's inquiry powers, orders and conduct of administrative proceedings apply to persons subject to this chapter:

- (a) Sections 41-210 through 41-215, Idaho Code;
- (b) Sections 41-220 through 41-223, 41-225, and 41-227, Idaho Code; and
- (c) Sections 41-229 through 41-240, and section 41-247, Idaho Code.

(3) Any company that violates any provisions of this act may, in the director's discretion, be subject to a civil penalty of one thousand dollars (\$1,000) per violation, limited to a total of twenty-five thousand dollars (\$25,000) in the aggregate for all like violations.

(4) This act does not create a separate civil cause of action, but does not preclude a cause of action under the Idaho consumer protection act, chapter 6, title 48, Idaho Code, or any applicable common law or statutory causes of action.

SECTION 3. That Section 41-114A, Idaho Code, be, and the same is hereby amended to read as follows:

41-114A. SERVICE CONTRACTS. (1) The term "service contract," as used in this section, means a contract or agreement for a separately stated consideration for a specific duration to perform the repair, replacement or maintenance of property or to reimburse, in whole or in part, the owner of such property for the repair, replacement or maintenance of property if an operational or structural failure is due to a defect in materials or manufacturing or to normal wear and tear. A service contract may contain a provision for incidental payment under such contract where service, repair or replacement is not feasible or economical. Service contracts, other than motor vehicle service contracts subject to the provisions of the Idaho motor vehicle service contract act, chapter 28 62, title 49 41, Idaho Code, may provide for the repair, replacement or maintenance of property for damage resulting from power surges and accidental damage from handling.

(2) The marketing, sale, offering for sale, issuance, making, proposing to make, and administration of a service contract is exempt from the provisions of title 41, Idaho Code.

(3) Service contracts shall be subject to the provisions of the Idaho consumer protection act, chapter 6, title 48, Idaho Code.

Approved March 19, 2018

CHAPTER 117
(H.B. No. 490)

AN ACT

RELATING TO NONCLASSIFIED STATE OFFICERS AND EMPLOYEES; AMENDING SECTION 59-1603, IDAHO CODE, TO CLARIFY A PROVISION REGARDING THE SALARY OR WAGE OF CERTAIN NONCLASSIFIED EMPLOYEES, TO PROVIDE THAT DEPARTMENT DIRECTORS AND THE ADMINISTRATOR OF THE DIVISION OF HUMAN RESOURCES ARE AUTHORIZED TO SEEK CERTAIN REMEDIES FROM CERTAIN EMPLOYEES WHO RESIGN AFTER RECEIVING A RECRUITMENT OR RETENTION BONUS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 59-1603, Idaho Code, be, and the same is hereby amended to read as follows:

59-1603. CONFORMITY WITH CLASSIFIED POSITIONS. (1) To the extent possible, each nonclassified position in the executive department will be paid a salary or wage comparable to classified positions with similar duties, responsibilities, training, experience and other qualifications in consultation with the division of human resources. Temporary employees and agricultural inspectors referred to in subsections (n) and (p) of section 67-5303, Idaho Code, shall not be entitled to sick leave accruals provided in section 59-1605, Idaho Code, vacation leave provided in section 59-1606, Idaho Code, nor holiday pay defined in subsection (15) of section 67-5302, Idaho Code, unless contributions are being made to the public employee retirement system in accordance with chapter 13, title 59, Idaho Code, and rules promulgated by the retirement board. Vacation and sick leave accruals, but not holiday pay, shall be awarded retroactively, if necessary, to the date such employees become eligible for retirement system membership.

(2) To the extent possible, each nonclassified position in the legislative department will be paid a salary or wage comparable to classified posi-

tions with similar duties, responsibilities, training, experience and other qualifications.

(3) The supreme court shall determine the schedules of salary and compensation for all officers and employees of the judicial department which that are not otherwise fixed by law. To the extent possible, the supreme court shall adopt schedules ~~which are~~ compatible with the state's accounting system. The judicial department may also maintain personnel records and files under such system as is ordered by the supreme court.

(4) The state board of education shall determine the schedules of salary and compensation, and prescribe policies for overtime and compensatory time off from duty, for all officers and employees of the state board of education who are not subject to the provisions of chapter 53, title 67, Idaho Code, and which are not otherwise fixed by law. To the extent possible, the state board of education shall adopt schedules and policies ~~which are~~ compatible with the state's accounting system. The state board of education may also maintain personnel records and files under a system of its own, if approved by the state controller.

(5) Members of the legislature, the lieutenant governor, other officers whose salaries are fixed by law, and members of part-time boards, commissions and committees shall be paid according to law.

(6) Any schedule of salary and compensation must be approved by the appointing authority and be communicated to the state controller in writing at least thirty (30) days in advance of the effective date of the schedule.

(7) In addition to salary increases provided by any compensation schedule adopted pursuant to paragraph subsection (6) of this section, nonclassified officers and employees, except those who are elected officials or whose salaries are fixed by law, may be granted an award not to exceed two thousand dollars (\$2,000) in any given fiscal year based upon an affirmative certification of meritorious service. Exceptions to the two thousand dollar (\$2,000) limit provided in this section may be granted under extraordinary circumstances if approved in advance by the state board of examiners. Appointing authorities shall submit a report to the division of financial management and the legislative services office by October 1 on all awards granted in the preceding fiscal year.

(8) In addition to salary increases provided by any compensation schedule, nonclassified officers and employees, except those who are elected officials or whose salaries are fixed by law, may be granted an award not to exceed two thousand dollars (\$2,000) in any given fiscal year based upon suggestions or recommendations made by the employee which that resulted in taxpayer savings as a result of cost savings or greater efficiencies to the department, office or institution or to the state of Idaho in excess of the amount of the award. Exceptions to the two thousand dollar (\$2,000) limit provided in this subsection may be granted in extraordinary circumstances if approved in advance by the state board of examiners. The appointing authority shall as near as practicable utilize the criteria in conformance with rules promulgated by the division of human resources pursuant to section 67-5309D, Idaho Code. Appointing authorities shall submit a report to the division of financial management and the legislative services office by October 1 on all employee suggestion awards granted in the preceding fiscal year. Such report shall include any changes made as a direct result of an employee's suggestion and savings resulting therefrom.

(9) Each appointing authority, including the elective offices in the executive department, the legislative department, the judicial department, and the state board of education and the board of regents, shall comply with all reporting requirements necessary to produce the list of employee positions prescribed by section 67-3519, Idaho Code.

(10) The adjutant general, with the approval of the governor, shall prescribe personnel policies for all officers and employees of the national guard which that are not otherwise fixed by law. Such policies will include

an employee grievance procedure with appeal to the adjutant general. The adjutant general shall determine schedules of salary and compensation which that are, to the extent possible, comparable to the schedules used for federal civil service employees of the national guard and those employees serving in military status. Schedules adopted shall be compatible with the state's accounting system to the extent possible.

(11) In addition to salary increases provided by any compensation schedule, nonclassified officers and employees, except those who are elected officials or whose salaries are fixed by law, may be granted award pay for recruitment or retention purposes based upon affirmative certification of meritorious service after completion of at least six (6) months of service. Department directors and the administrator of the division of human resources are authorized to seek legal remedies available, including deductions from an employee's accrued vacation funds, from an employee who resigns during the designated period of time after receipt of a recruitment or retention bonus. Appointing authorities shall submit a report to the division of financial management and the legislative services office by October 1 on all such awards granted in the preceding fiscal year.

(12) In addition to salary increases provided by any compensation schedule, nonclassified officers and employees, except those who are elected officials or whose salaries are fixed by law, may be granted other pay as provided in this subsection. Appointing authorities shall submit a report to the division of financial management and the legislative services office by October 1 on all such awards granted in the preceding fiscal year, including:

(a) Shift differential pay up to twenty-five percent (25%) of hourly rates depending on local market rates in order to attract and retain qualified staff; and

(b) Geographic differential pay in areas of the state where recruitment and retention are difficult due to economic conditions and cost of living.

(13) In unusual circumstances, when a distribution has been approved for classified employees pursuant to section 67-5309D, Idaho Code, each appointing authority, including the elective offices in the executive branch, the legislative branch, the judicial branch, and the state board of education and the board of regents of the university of Idaho, may grant nonclassified employees nonmerit pay in the same proportion as received by classified employees in that department or institution. Appointing authorities shall submit a report to the division of financial management and the legislative services office by October 1 on all such awards granted in the preceding fiscal year.

(14) Each appointing authority shall, as nearly as practicable, utilize the criteria for reimbursement of moving expenses in conformance with section 67-5337, Idaho Code, and rules promulgated by the division of human resources pursuant thereto. Appointing authorities shall submit a report to the division of financial management and the legislative services office by October 1 on all moving reimbursements granted in the preceding fiscal year.

(15) Specific pay codes shall be established and maintained in the state controller's office to ensure accurate reporting and monitoring of all pay actions authorized in this section.

Approved March 19, 2018

CHAPTER 118
(H.B. No. 489)

AN ACT

RELATING TO THE PERSONNEL SYSTEM; AMENDING SECTION 67-5309, IDAHO CODE, TO REMOVE A PROVISION REGARDING RULEMAKING AUTHORITY FOR PROVISIONAL APPOINTMENTS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 67-5316, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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

SECTION 1. That Section 67-5309, Idaho Code, be, and the same is hereby amended to read as follows:

67-5309. RULES OF THE DIVISION OF HUMAN RESOURCES AND THE PERSONNEL COMMISSION. The administrator of the division of human resources shall have the power and authority to adopt, amend, or rescind such rules as may be necessary for proper administration of this chapter. Such rules shall include:

(a) A rule requiring the administrator, after consulting with each department, to develop, adopt, and make effective, a job classification system for positions covered by this chapter, based upon an analysis of the duties and responsibilities of the positions. The job classification shall include an appropriate title for each class, and a description of duties and responsibilities of positions in the classes and the requirements of minimum training, experience and other qualifications, suitable for the performance of duties of the position.

(b) A rule describing the relevant labor markets and benchmark job classifications used in the administrator's salary surveys.

(c) A rule requiring that all classes of positions which are common to the departments concerned shall have the same titles, minimum requirements and compensation ranges.

(d) A rule providing for review by the administrator of the personnel system including classifications and compensation policies and procedures.

(e) A rule that, notwithstanding the procedure for examination and ranking of eligibles on a register provided in subsection (f) of this section, an agency may appoint an individual directly into an entrance or promotional probation if the division of vocational rehabilitation, Idaho commission for the blind and visually impaired or the industrial commission certifies, with the concurrence of division of human resources staff, that the individual: (1) has a disability or handicap as defined under state or federal law; (2) is qualified to perform the essential functions of a particular classified position with or without reasonable accommodation; and (3) lacks competitiveness in the examination process due to the disability or handicap. The probationary period as provided in subsection (j) of this section shall be the sole examination for such individuals.

(f) A rule requiring fair and impartial selection of appointees to all positions other than those defined as nonclassified in this chapter, on the basis of open competitive merit examinations or evaluations. An application for an examination will be accepted after the closing date of the examination from a person who was serving in the armed forces, or undergoing service-connected hospitalization up to one (1) year following discharge. The application must be submitted within one hundred twenty (120) days of separation from the armed forces or hospitalization and prior to the expiration of the register established as a result of the examination. A disabled veteran may file an application at any time up until a selection has been made for any position for which the division maintains a register as a source for future job openings or for which a register is about to be established, provided he or she has not already been examined twice for the same position and

grade for which application is made, does not have current eligibility on that register, or is not serving in a competitive position in the same grade for which application is made. Examinations may be assembled or unassembled and may include various examining techniques such as rating of training and experience, written tests, oral interviews, recognition of professional licensing, performance tests, investigations and any other measure of ability to perform the duties of the position. Examinations shall be scored objectively. Five (5) points shall be added to the earned rating of any veteran as defined in section 65-502, Idaho Code, and the widow or widower of any veteran as defined in section 65-502, Idaho Code, as long as he or she remains unmarried. Pursuant to section 65-504, Idaho Code, ten (10) points shall be added to the earned rating of any disabled veteran as defined in section 65-502, Idaho Code, the widow or widower of any disabled veteran as long as he or she remains unmarried, or the spouse of any eligible disabled veteran who cannot qualify for any public employment because of a service-connected disability. Employment registers shall be established in order of final score except that the names of all five (5) and ten (10) point preference eligibles resulting from any merit system or civil service examination shall be placed on the register in accordance with their augmented rating. Certification of eligibility for appointment to vacancies shall be in accordance with a formula which that limits selection by the hiring department from among the twenty-five (25) top ranking available eligibles plus the names of all individuals with scores identical to the twenty-fifth ranking eligible on the register. A register with at least five (5) eligibles shall be adequate. Selective certification shall be permitted when justified by the hiring department, under rules to be made by the division defining adequate justification based on the duties and requirements of the positions. Such examinations need not be held until after the rules have been adopted, the service classified and a pay plan established, but shall be held not later than one (1) year after departments commence participation in the personnel system.

(g) A rule that, whenever practicable, a vacancy in a classified position shall be filled by the promotion of a qualified employee of the agency in which the vacancy occurs. An interagency promotion shall be made through competitive examination and all qualified state employees shall have the opportunity to compete for such promotions. If an employee's name appears within certifiable range on a current register for a higher class of position, he shall be eligible for a transfer and promotion.

(h) A rule for development and maintenance of a system of service ratings and the use of such ratings by all departments in connection with promotions, demotions, retentions, separations and reassignments. The rule shall require that an evaluation of each classified employee shall be made after each two thousand eighty (2,080) hour period of credited state service, and that a copy of the evaluation shall be filed with the division.

(i) A rule prohibiting disqualification of any person from taking an examination, from appointment to a position, from promotion, or from holding a position because of race or national origin, color, sex, age, political or religious opinions or affiliations, and providing for right of appeal.

(j) A rule establishing a probation period not to exceed one thousand forty (1,040) hours of credited state service for all appointments and promotions, except that peace officers as defined in section 19-5101, Idaho Code, shall be subject to a probation period of two thousand eighty (2,080) hours of credited state service, and for the appointing authority to provide the employee and the administrator a performance evaluation indicating satisfactory or unsatisfactory performance not later than thirty (30) days after the expiration of the probationary period. The rule shall provide that if the appointing authority fails to provide a performance evaluation within thirty (30) days after the expiration of the probationary period, the employee shall be deemed to have satisfactorily completed the probation unless the appointing authority receives approval from the administrator to

extend the probationary period for good cause for an additional specified period not to exceed one thousand forty (1,040) hours of credited state service. If an employee is performing in an unsatisfactory manner during the entrance probationary period, the appointing authority shall ask the employee to resign, and, if no resignation is submitted, shall terminate the employment of such employee without the right of grievance or appeal.

~~(k)~~ A rule concerning provisional appointments.

~~(l)~~ A rule concerning temporary appointments.

~~(m)~~ A rule governing the employment of consultants and persons retained under independent contract.

~~(n)~~ A rule for the disciplinary dismissal, demotion, suspension or other discipline of employees only for cause with reasons given in writing. Such rule shall provide that any of the following reasons shall be proper cause for the disciplinary dismissal, demotion or suspension of any employee in the state classified service:

1. Failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes and rules of the employee's department, or rules of the administrator or the division.
2. Inefficiency, incompetency, or negligence in the performance of duties, or job performance that fails to meet established performance standards.
3. Physical or mental incapability for performing assigned duties.
4. Refusal to accept a reasonable and proper assignment from an authorized supervisor.
5. Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the employee's department.
6. Intoxication on duty.
7. Careless, negligent, or improper use or unlawful conversion of state property, equipment or funds.
8. Use of any influence which that violates the principles of the merit system in an attempt to secure a promotion or privileges for individual advantage.
9. Conviction of official misconduct in office, or conviction of any felony, or conviction of any other crime involving moral turpitude.
10. Acceptance of gifts in exchange for influence or favors given in the employee's official capacity.
11. Habitual pattern of failure to report for duty at the assigned place and time.
12. Habitual improper use of sick leave privileges.
13. Unauthorized disclosure of confidential information from official records.
14. Absence without leave.
15. Misstatement or deception in the application for the position.
16. Failure to obtain or maintain a current license or certificate lawfully required as a condition for performing the duties of the job.
17. Prohibited participation in political activities.

~~(o)~~ A rule to establish procedures for maintenance of a record of the employment history and appropriate information relating to performance of all employees under the personnel system. For the purposes of this rule, the state shall be considered one (1) employer.

~~(p)~~ Rules to provide for recruitment programs in cooperation with department heads and the employment security agency in keeping with current employment conditions and labor market trends.

~~(q)~~ Rules to establish procedures for examinations as necessary for the purpose of maintaining current registers from which to fill employment vacancies.

~~(r)~~ Other rules not inconsistent with the foregoing provisions of this section as may be necessary and proper for the administration and enforcement of this chapter.

(~~sr~~) A rule concerning "project exempt" appointments.

(~~ts~~) Rules relating to leave for state employees from official duties including, but not limited to, sick leave, military leave, jury duty, leaves of absence without compensation and such other forms of absence from performance of duties in the course of state employment as may be necessary.

(~~ut~~) A rule providing up to twenty-five percent (25%) shift differential pay based on local market practices.

(~~vu~~) A rule to establish guidelines for awarding employee suggestion awards set forth in sections 59-1603 and 67-5309D, Idaho Code.

(~~wv~~) A rule to establish the reimbursement of moving expenses for a current or newly-hired newly hired state employee.

(~~xw~~) A rule to allow, at the request of the hiring agency, temporary service time to count toward fulfilling entrance probationary requirements as established in subsection (j) of this section.

(~~yx~~) A rule to allow, at the request of the hiring agency, acting appointment service time to count toward fulfilling promotional probationary requirements as established in subsection (j) of this section.

SECTION 2. That Section 67-5316, Idaho Code, be, and the same is hereby amended to read as follows:

67-5316. APPEAL PROCEDURE. (1) Appeals shall be limited to the following:

(a) Any classified employee who has successfully completed the entrance probationary period may, after completing the departmental due process procedure, appeal a disciplinary dismissal, demotion or suspension.

(b) Any classified employee may, after completing the departmental problem solving procedure, appeal the failure of an appointing authority to provide a right and/or benefit to which the employee is entitled by law.

(c) Any interested person may appeal any decision or action taken by the administrator of the division of human resources or the staff of the division of human resources in the performance of their official duties.

(d) Any interested person may appeal any other matters as may now or later be assigned to the personnel commission by law.

(2) The decision or action of the appointing authority shall be final and conclusive unless a classified employee files an appeal within thirty-five (35) days after completing the departmental problem solving or due process procedure concerning the actions referred to in subsection (1) (a), (b), (c) and (d) of this section. A decision of the administrator shall be final and conclusive as to any other interested person unless an appeal is filed within thirty-five (35) days of written notice of that decision.

(3) The commission shall assign the matter for hearing to a duly appointed hearing officer, who may be a member of the commission.

(4) Where the action in dispute was the discharge, demotion, or suspension, upon determination that proper cause did not in fact exist within the definitions set forth in section 67-5309 (~~am~~), Idaho Code, or that the action was taken by reason of illegal discrimination, the commission or the hearing officer shall order the reinstatement of the employee in the same position or a position of like status and pay, with or without loss of pay for the period of discharge, demotion, or suspension, or may order such other remedy as may be determined to be appropriate. In all other disputed matters, the commission and the hearing officer may order such action as may be appropriate.

(5) Process and procedure under this act shall be as summary and simple as reasonably may be. The hearing officer appointed by the commission shall have the power to subpoena witnesses, administer oaths, and examine such of the books and records of the parties to a proceeding as relate to the ques-

tions in dispute. A verbatim record of the proceedings at hearings before the commission or a hearing officer shall be maintained either by electrical devices or by stenographic means, as the commission or hearing officer may direct, but if any party to the action requests a stenographic record of the proceedings, the record shall be done stenographically. The requesting party shall pay the costs of transcribing the proceedings.

The district court, in and for the county in which any proceedings before the Idaho personnel commission are held, shall have the power to enforce by proper proceedings the attendance and testimony of witnesses, and production and examination of books, papers, and records.

(6) If the parties reach an agreement in regard to the matters of dispute, a memorandum of the agreement shall be filed with the commission and, if approved by it, the memorandum shall be enforceable for all purposes.

(7) The hearing officer shall give written notice of the time and place of hearing, either by personal service or by mail. Service by mail shall be deemed complete when a copy of such notice is deposited in the United States post office, with postage prepaid, addressed to a party's last known address, as shown in the records and files of the commission. An affidavit of personal service shall be filed by the person making the same.

(8) The hearing officer to whom the matter has been assigned shall make such inquiry and investigations as shall be deemed necessary. The hearings shall be held in such place as the hearing officer may designate. The decision of the hearing officer, consisting of such findings of fact, conclusions of law and orders as are necessary, together with the record of the proceedings, shall be filed in the office of the Idaho personnel commission. A copy of the hearing officer's decision shall be immediately sent to the parties by United States mail. The decision of the hearing officer shall be final and conclusive between the parties, unless a petition for review is filed with the commission within thirty-five (35) days. The petition for review shall specifically cite the alleged errors of fact or law made by the hearing officer.

(9) Any party in interest may file in the district court for the county in which any party to the proceedings resides, a certified copy of the final decision of the hearing officer, which the district court shall have the power to enforce by proper proceedings.

(10) Where the decision and order of the hearing officer directed the reinstatement of an employee, the employee shall be reinstated upon receipt of a copy of the decision unless a petition for review is filed.

Approved March 19, 2018

CHAPTER 119
(H.B. No. 434)

AN ACT

RELATING TO THE DEPARTMENT OF ADMINISTRATION; AMENDING SECTION 67-5711C, IDAHO CODE, TO PROVIDE A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-5711C, Idaho Code, be, and the same is hereby amended to read as follows:

67-5711C. CONSTRUCTION OF PUBLIC PROJECTS -- COMPETITIVE SEALED BIDDING. (1) All construction contracts for public works shall be awarded to the lowest responsible and responsive bidder, subject to the provisions of section 59-1015, Idaho Code, after receipt of competitive sealed bidding ex-

cept as otherwise provided in sections 67-5711B, 67-5711D and 67-5713, Idaho Code.

(2) An invitation for bids shall be issued and shall include a project description and all contractual terms and conditions applicable to the public works.

(3) Adequate public notice of the invitation for bids shall be given at least fourteen (14) days prior to the date set forth therein for the opening of bids. Such notice shall include publication at least fourteen (14) days prior to bid opening in a newspaper of general circulation in the area where the work is located.

(4) When prequalification is deemed by the department and by the respective state agency to be in the best interest of the state, competitive bidding procedures shall be open only to licensed public works contractors that meet preliminary supplemental qualifications. The solicitation for bids in a prequalified bidder public works project shall consist of two (2) stages, an initial stage for identifying prequalified contractors, either prime or specialty contractors, followed by a stage during which bid prices will be accepted only from prequalified contractors. Notice of the prequalification stage shall be given in the same manner that notice of open competitive bidding is provided. Prequalification standards must be premised upon demonstrated technical competence, experience constructing similar facilities, prior experience with the state, past performance (related to quality, workmanship and timeliness), reliability, safety record, available nonfinancial resources, equipment and personnel as they relate to the subject project, and overall performance history based upon a contractor's entire body of work. Any request for qualifications must include the standards for evaluating the qualifications of prospective bidders. Licensed contractors desiring to be prequalified to bid on a project must submit a written response to a request for qualifications. After a review of qualification submittals, licensed contractors that meet the prequalification standards shall be so notified, and licensed contractors that do not meet the prequalification standards shall also be so notified. Thereafter, bids may be solicited from contractors that meet the prequalification standards. The department may promulgate rules or develop procedures to implement the prequalification process.

(5) Bids shall be opened publicly at the time and place designated in the invitation for bids. The amount of each bid and such other relevant information as may be specified by rules, together with the name of each bidder, shall be entered on a record and the record shall be open to public inspection. After the time of the award, all bids and bid documents shall be open to public inspection in accordance with the provisions of chapter 1, title 74 and section 67-9215, Idaho Code.

(6) With respect to a project having a written cost estimate of greater than twenty-five thousand dollars (\$25,000) but less than the public works limit established in section 67-5711, Idaho Code, the agency, if it does not perform the work with existing physical plant staff, must award a written contract to the lowest responsible and responsive bidder after soliciting at least three (3) documented informal bids from contractors licensed in Idaho to perform public works contracts, if reasonably available. Adequate public notice of the invitation for informal bids shall be given at least seven (7) days prior to the date set forth therein for the receipt of the informal bids. Such notice may include publication at least seven (7) days prior to bid opening in a newspaper of general circulation in the area where the work is located; or the agency may advertise the invitation for bids in appropriate trade journals, and otherwise notify persons believed to be interested in the award of a contract. Informal bids must be submitted by the contractor in writing in response to a prepared written document describing the project's scope of work in sufficient detail so as to enable a contractor familiar with such work to prepare a responsible bid. Nothing herein exempts

an agency from the responsibility of utilizing formal plans and specifications if the work involves the public health or safety as described in chapters 3 and 12, title 54, Idaho Code. The agency must document receipt of the informal bids in the project file.

(7) Any personal property including goods, parts, supplies and equipment which is to be supplied or provided by a state agency for use in any public work, project, or preventive maintenance programs, whether the public work, project, or preventive maintenance program is constructed, undertaken or performed by agency in-house personnel, or by delegation pursuant to section 67-5710A, Idaho Code, or otherwise provided or supplied by the agency to a contractor, the personal property, goods, parts, supplies or equipment supplied or provided by the agency must be purchased or procured by the agency through the division of purchasing in accordance with the Idaho Code.

Approved March 19, 2018

CHAPTER 120
(H.B. No. 431)

AN ACT

RELATING TO THE STATE PERSONNEL SYSTEM; AMENDING SECTION 67-5303, IDAHO CODE, TO PROVIDE THAT MEDICAL DIRECTORS EMPLOYED AT STATE HOSPITALS SHALL BE NONCLASSIFIED EMPLOYEES AND TO MAKE TECHNICAL CORRECTIONS.

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

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

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

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

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

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

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

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

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

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

(h) All employees of the Idaho state bar.

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

(j) Officers, members of the teaching staffs of state educational institutions, the professional staff of the Idaho department of education administered by the board of regents and the board of education, and the professional staffs of the Idaho division of career technical education and vocational rehabilitation administered by the state board for career technical education. "Teaching staff" includes teachers, coaches, resident directors, librarians and those principally engaged in academic research. The word "officer" means presidents, vice presidents, deans, directors, or employees in positions designated by the state board who receive an annual salary of not less than step "A" of the pay grade equivalent to three hundred fifty-five (355) Hay points in the state compensation schedule. A nonclassified employee who is designated as an "officer" on July 5, 1991, but does not meet the requirements of this subsection, may make a one (1) time irrevocable election to remain nonclassified. Such an election must be made not later than August 2, 1991. When such positions become vacant, these positions will be reviewed and designated as either classified or nonclassified in accordance with this subsection.

(k) Employees of the military division.

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

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

(n) Temporary employees.

(o) All employees and officers of the following named commodity commissions, and all employees and officers of any commodity commission created hereafter: the Idaho potato commission, as provided in chapter 12, title 22, Idaho Code; the Idaho honey commission, as provided in chapter 28, title 22, Idaho Code; the Idaho bean commission, as provided in chapter 29, title 22, Idaho Code; the Idaho hop grower's commission, as provided in chapter 31, title 22, Idaho Code; the Idaho wheat commission, as provided in chapter 33, title 22, Idaho Code; the Idaho pea and lentil commission, as provided in chapter 35, title 22, Idaho Code; the Idaho apple commission, as provided in chapter 36, title 22, Idaho Code; the Idaho cherry commission, as provided in chapter 37, title 22, Idaho Code; the Idaho mint grower's commission, as provided in chapter 38, title 22, Idaho Code; the Idaho sheep and goat health board, as provided in chapter 1, title 25, Idaho Code; the state brand inspector, and all district supervisors, as provided in chapter 11, title 25, Idaho Code; the Idaho beef council, as provided in chapter 29, title 25, Idaho Code; and the Idaho dairy products commission, as provided in chapter 31, title 25, Idaho Code.

(p) All inspectors of the fresh fruit and vegetable inspection service of the Idaho department of agriculture, except those positions involved in the management of the program.

(q) All employees of correctional industries within the department of correction.

(r) All deputy administrators and wardens employed by the department of correction. Deputy administrators are defined as only the deputy administrators working directly for the nonclassified division administrators under the director of the department of correction.

(s) All public information positions, with the exception of secretarial positions, in any department.

(t) Any division administrator.

(u) Any regional administrator or division administrator in the department of environmental quality.

(v) All employees of the division of financial management, all employees of the stem STEM action center, all employees of the office of species conservation, all employees of the office of drug policy and all employees of the office of energy resources.

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

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

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

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

(aa) All medical directors employed by the department of health and welfare who are engaged in the practice of medicine, as defined by section 54-1803, Idaho Code, at an institution named in section 66-115, Idaho Code.

Approved March 19, 2018

CHAPTER 121
(H.B. No. 535)

AN ACT

RELATING TO SALES UNDER EXECUTION; AMENDING SECTION 11-304, IDAHO CODE, TO REVISE PROVISIONS REGARDING HOW SALES ARE CONDUCTED.

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

SECTION 1. That Section 11-304, Idaho Code, be, and the same is hereby amended to read as follows:

11-304. CONDUCT OF SALE. All sales of property under execution must be made at auction, to the highest bidder, ~~between the hours of nine (9:00) in the morning and five (5:00) in the afternoon.~~ After sufficient property has been sold to satisfy the execution, no more can be sold. Neither the officer holding the execution nor his deputy can become a purchaser, or be interested in any purchase, at such sale. When the sale is of personal property, capable of manual delivery, it must be ~~within view of those who attend the sale,~~ and be sold in such parcels as are likely to bring the highest price; and when the sale is of real property, consisting of several known lots or parcels, they must be sold separately, or when a portion of such real property is claimed by a third person, and he requires it to be sold separately, such portion must be thus sold. The judgment debtor, if present at the sale, may also direct the order in which property, real or personal, shall be sold, when such property consists of several known lots or parcels, or of articles which can be sold to advantage separately, and the sheriff must follow such directions.

Approved March 19, 2018

CHAPTER 122
(H.B. No. 533)

AN ACT

RELATING TO COUNTY JAILS; AMENDING SECTION 20-237A, IDAHO CODE, TO REVISE A PROVISION REGARDING PER DIEM RATES FOR PRISONERS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 20-237A, Idaho Code, be, and the same is hereby amended to read as follows:

20-237A. FUNDING PER DIEM COSTS OF STATE PRISONERS HOUSED IN COUNTY JAILS, RELATED ADDITIONAL EXPENSES AND MANNER OF PAYMENT. (1) The board of correction shall pay each county for housing prisoners convicted, sentenced and committed to the custody of the state board of correction, including probationers and parolees committed to a county jail under section 20-219(7) (b), Idaho Code, beginning on the day after receipt by the director of notice that a person is in custody, as provided in section 20-237, Idaho Code.

(2) The state board of correction shall pay counties housing state-sentenced prisoners a minimum rate of ~~forty~~ forty-five dollars (\$~~45~~55.00) per day, per inmate for the first seven (7) days of custody and seventy-five dollars (\$75.00) per day per inmate thereafter. Nothing stated herein will prohibit the state board of correction from entering into a contract with a county pursuant to section 20-241, Idaho Code.

(3) In addition to payment of per diem costs as above provided in this section, the state board of correction shall pay for all ordinary and necessary medical and dental expenses of state prisoners housed in county jails.

(4) As between themselves, the state board of correction and each of the counties will be responsible for their pro rata share of any property damages or personal injuries arising from the housing of state-sentenced prisoners, which is attributable to their respective negligence or otherwise wrongful conduct. This provision shall not alter or affect any immunities or exceptions to governmental liability the state or counties may possess as to private persons pursuant to the Idaho tort claims act, chapter 9, title 6, Idaho Code.

(5) The legislature shall appropriate sufficient funds annually to the department of correction to make all payments to counties as required in this section.

(6) The county sheriffs shall bill the department of correction at least every sixty (60) days. The department of correction shall pay such bills within sixty (60) days of their receipt.

(7) The germane committees of the legislature shall review the costs of housing inmates in county jails every three (3) years beginning in 2004.

Approved March 19, 2018

CHAPTER 123
(H.B. No. 360)

AN ACT

RELATING TO ASSAULT AND BATTERY; AMENDING SECTION 18-918, IDAHO CODE, TO PROVIDE A CODE REFERENCE, TO REVISE A PROVISION REGARDING COUNSELING, TO PROVIDE THAT THE SUPREME COURT SHALL ESTABLISH A CERTAIN RULE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 18-923, IDAHO CODE, TO PROVIDE THAT A PERSON GUILTY OF ATTEMPTED STRANGULATION SHALL UNDERGO A CERTAIN EVALUATION, COUNSELING AND OTHER TREATMENT.

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

SECTION 1. That Section 18-918, Idaho Code, be, and the same is hereby amended to read as follows:

18-918. DOMESTIC VIOLENCE. (1) For the purpose of this section:

(a) "Household member" means a person who is a spouse, former spouse, or a person who has a child in common regardless of whether they have been married or a person with whom a person is cohabiting, whether or not they have married or have held themselves out to be husband or wife.

(b) "Traumatic injury" means a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature, caused by physical force.

(2) (a) Any household member who in committing a battery, as defined in section 18-903, Idaho Code, inflicts a traumatic injury upon any other household member is guilty of a felony.

(b) A conviction of felony domestic battery is punishable by imprisonment in the state prison for a term not to exceed ten (10) years or by a fine not to exceed ten thousand dollars (\$10,000) or by both fine and imprisonment.

(3) (a) A household member who commits an assault, as defined in section 18-901, Idaho Code, against another household member which does not result in traumatic injury is guilty of a misdemeanor domestic assault.

(b) A household member who commits a battery, as defined in section 18-903, Idaho Code, against another household member which does not result in traumatic injury is guilty of a misdemeanor domestic battery.

(c) A first conviction under this subsection ~~(3)~~ is punishable by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment in a county jail not to exceed six (6) months, or both. Any person who pleads guilty to or is found guilty of a violation of this subsection ~~(3)~~ who previously has pled guilty to or been found guilty of a violation of this subsection ~~(3)~~, or of any substantially conforming foreign criminal violation, notwithstanding the form of the judgment or withheld judgment, within ten (10) years of the first conviction, shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail for a term not to exceed one (1) year or by a fine not exceeding two thousand dollars (\$2,000) or by both fine and imprisonment. Any person who pleads guilty to or is found guilty of a violation of this subsection ~~(3)~~ who previously has pled guilty to or been found guilty of two (2) violations of this subsection ~~(3)~~, or of any substantially conforming foreign criminal violation or any combination thereof, notwithstanding the form of the judgment or withheld judgment, within fifteen (15) years of the first conviction, shall be guilty of a felony and shall be punished by imprisonment in the state prison for a term not to exceed five (5) years or by a fine not to exceed five thousand dollars (\$5,000) or by both fine and imprisonment.

(4) The maximum penalties provided in this section shall be doubled where the act of domestic assault or battery for which the person is convicted or pleads guilty took place in the presence of a child. For purposes of this section, "in the presence of a child" means in the physical presence of a child or knowing that a child is present and may see or hear an act of domestic assault or battery. For purposes of this section, "child" means a person under sixteen (16) years of age.

(5) Notwithstanding any other provisions of this section, any person who previously has pled guilty to or been found guilty of a felony violation of the provisions of this section or of any substantially conforming foreign criminal felony violation, notwithstanding the form of the judgment or withheld judgment, and who, within fifteen (15) years, pleads guilty to or is found guilty of any further violation of this section, shall be guilty of a felony and shall be punished by imprisonment in the state prison for a term not to exceed ten (10) years or by a fine not to exceed ten thousand dollars (\$10,000), or by both such fine and imprisonment.

(6) For the purposes of this section, a substantially conforming foreign criminal violation exists when a person has pled guilty to or been found guilty of a violation of any federal law or law of another state, or any valid county, city or town ordinance of another state, substantially conforming with the provisions of this section. The determination of whether a foreign criminal violation is substantially conforming is a question of law to be determined by the court.

(7) (a) Any person who pleads guilty to or is found guilty of a violation of this section or section 18-923, Idaho Code, shall undergo, at the person's own expense, an evaluation by a person, agency or organization approved by the court in accordance with paragraph (c) of this subsection to determine whether the defendant should be required to obtain aggression counseling or other appropriate treatment. Such evaluation shall be completed prior to the sentencing date if the court's list of approved evaluators, in accordance with paragraph (c) of this subsection, contains evaluators who are able to perform the evaluation prior to the sentencing dates. If the evaluation recommends counseling or other treatment, the evaluation shall recommend the type of counseling or treatment considered appropriate for the defendant, together with the estimated costs thereof, and shall recommend any other suitable alternative counseling or treatment programs, together with the estimated costs thereof. The defendant shall request that a copy of the completed evaluation be forwarded to the court. The court shall take the evaluation into consideration in determining an appropriate sentence. If a copy of the completed evaluation has not been provided to the court, the court may proceed to sentence the defendant; however, in such event, it shall be presumed that counseling is required unless the defendant makes a showing by a preponderance of evidence that counseling is not required. If the defendant has not made a good faith effort to provide the completed copy of the evaluation to the court, the court may consider the failure of the defendant to provide the report as an aggravating circumstance in determining an appropriate sentence. If counseling or other treatment is ordered, in no event shall the person, agency or organization doing the evaluation be the person, agency or organization that provides the counseling or other treatment unless this requirement is waived by the sentencing court, with the exception of federally recognized Indian tribes or federal military installations, where diagnosis and treatment are appropriate and available. Nothing herein contained shall preclude the use of funds authorized for court-ordered counseling or treatment pursuant to this section for indigent defendants as provided by law. In the event that funding is provided for or on behalf of the defendant by a governmental entity, the defendant shall be ordered to make restitution to such governmental

entity in accordance with the restitution procedure for crime victims, as specified under chapter 53, title 19, Idaho Code.

(b) If the evaluation recommends counseling or other treatment, the court shall order the person to complete the counseling or other treatment in addition to any other sentence which may be imposed. If the court determines that counseling or treatment would be inappropriate or undesirable, the court shall enter findings articulating the reasons for such determination on the record. The court shall order the defendant to complete the preferred counseling or treatment program set forth in the evaluation, or a comparable alternative, unless it appears that the defendant cannot reasonably obtain adequate financial resources for such counseling or treatment. In that event, the court may order the defendant to complete a less costly alternative set forth in the evaluation or a comparable program. Nothing contained in this subsection shall be construed as requiring a court to order that counseling or treatment be provided at government expense unless otherwise required by law.

(c) ~~Each judicial district~~ The supreme court shall by rule establish a uniform system for the qualification and approval of persons, agencies or organizations to perform the evaluations required in this subsection. Only qualified evaluators approved by the court shall be authorized to perform such evaluations. Funds to establish a system for approval of evaluators shall be derived from moneys designated therefor and deposited in the district court fund as provided in section 31-3201A(16), Idaho Code.

(d) Counseling or treatment ordered pursuant to this section shall be conducted according to standards established or approved by the Idaho council on domestic violence and victim assistance.

SECTION 2. That Section 18-923, Idaho Code, be, and the same is hereby amended to read as follows:

18-923. ATTEMPTED STRANGULATION. (1) Any person who willfully and unlawfully chokes or attempts to strangle a household member, or a person with whom he or she has or had a dating relationship, is guilty of a felony punishable by incarceration for up to fifteen (15) years in the state prison.

(2) No injuries are required to prove attempted strangulation.

(3) The prosecution is not required to show that the defendant intended to kill or injure the victim. The only intent required is the intent to choke or attempt to strangle.

(4) "Household member" assumes the same definition as set forth in section 18-918(1) (a), Idaho Code.

(5) "Dating relationship" assumes the same definition as set forth in section 39-6303(2), Idaho Code.

(6) Any person who pleads guilty to or is found guilty of a violation of this section shall undergo an evaluation, counseling and other treatment as provided in section 18-918(7), Idaho Code.

Approved March 19, 2018

CHAPTER 124
(H.B. No. 359)

AN ACT

RELATING TO ACTION FOR POSSESSION; AMENDING SECTION 6-310, IDAHO CODE, TO REVISE A PROVISION REGARDING WHAT SHALL BE STATED IN A VERIFIED COMPLAINT AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 6-310, Idaho Code, be, and the same is hereby amended to read as follows:

6-310. ACTION FOR POSSESSION -- COMPLAINT -- SUMMONS. (1) In an action exclusively for possession of a tract of land of five (5) acres or less for the nonpayment of rent, or on the grounds that a landlord has reasonable grounds to believe that any person is, or has been, engaged in the unlawful delivery, production or use of a controlled substance on the leased premises during the term for which the premises are let to the tenant, or in the event the tenant is a tenant at sufferance pursuant to ~~subsection (11) of section 45-1506(11)~~, Idaho Code, it is sufficient to state in the complaint:

- (a) A description of the premises with convenient certainty;
- (b) That the defendant is in possession of the premises;
- (c) That the defendant entered upon the premises, holds the premises, and is in default of the payment of rent or that the landlord has reasonable grounds to believe that any person is, or has been, engaged in the unlawful delivery, production or use of a controlled substance on the leased premises during the term for which the premises are let to the tenant;
- (d) That all notices required by law have been served upon the defendant in the required manner or no notice is required because the defendant is a tenant at sufferance pursuant to ~~subsection (11) of section 45-1506(11)~~, Idaho Code; and
- (e) That the plaintiff is entitled to the possession of the premises.

(2) Upon filing the complaint, a summons must be issued, served and returned as in other actions, provided, however, that at the time of issuance of the summons, the court shall schedule a trial within twelve (12) days from the filing of the complaint, and the service of the summons, complaint and notice of trial setting on the defendant shall be not less than five (5) days before the day of trial appointed by the court.

(3) In an action for possession against a defendant alleged to be occupying property as a result of forcible detainer, a property owner shall state in a verified complaint:

- (a) A description of the premises with convenient certainty;
- (b) That the defendant is in possession of the premises;
- (c) That the defendant entered upon the premises and holds the premises by means of forcible detainer;
- (d) That neither the property owner nor any agent thereof has ever entered into a lease or any other similar agreement with the defendant;
- (e) That all notices required by law have demand has been served upon made to the defendant in the required manner for surrender of the property, and the defendant has refused to surrender the property to the former occupant or property owner; and
- (f) That the plaintiff is entitled to the possession of the premises.

(4) Upon filing the complaint, a summons must be issued, served and returned as in other actions, provided, however, that at the time of issuance of the summons, the court shall schedule a trial within seventy-two (72) hours from the filing of the complaint, excluding weekends and official

holidays. The service of the summons, complaint and notice of trial setting on the defendant shall be not less than twenty-four (24) hours before the time of trial appointed by the court.

(5) If any property owner files an action for possession against a defendant alleged to be occupying the property as a result of forcible detainer when a landlord-tenant relationship existed with the defendant and/or in bad faith, said property owner shall be liable to the defendant for treble damages as enumerated in this chapter.

Approved March 19, 2018

CHAPTER 125
(H.B. No. 358)

AN ACT

RELATING TO SUSPENSION OF JUDGMENT AND SENTENCE; AMENDING SECTION 19-2601, IDAHO CODE, TO PROVIDE THAT THE COURT MAY RETAIN JURISDICTION OVER CERTAIN PRISONERS FOR A CERTAIN PERIOD OF TIME.

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

SECTION 1. That Section 19-2601, Idaho Code, be, and the same is hereby amended to read as follows:

19-2601. COMMUTATION, SUSPENSION, WITHHOLDING OF SENTENCE -- PROBATION. Whenever any person shall have been convicted, or enter a plea of guilty, in any district court of the state of Idaho, of or to any crime against the laws of the state, except those of treason or murder, the court in its discretion may:

1. Commute the sentence and confine the defendant in the county jail, or, if the defendant is of proper age, commit the defendant to the custody of the state department of juvenile corrections;

2. Suspend the execution of the judgment at the time of judgment or at any time during the term of a sentence in the county jail and may place the defendant on probation under such terms and conditions as it deems necessary and appropriate;

3. Withhold judgment on such terms and for such time as it may prescribe and may place the defendant on probation under such terms and conditions as it deems necessary and appropriate; or

4. Suspend the execution of the judgment at any time during the first three hundred sixty-five (365) days of a sentence to the custody of the state board of correction. The court shall may retain jurisdiction over the prisoner for a period of up to the first three hundred sixty-five (365) days. Except as provided for in section 19-2601A, Idaho Code, during the period of retained jurisdiction, the state board of correction shall be responsible for determining the placement of the prisoner and such education, programming and treatment as it determines to be appropriate. The prisoner will remain committed to the board of correction if not affirmatively placed on probation by the court. In extraordinary circumstances, where the court concludes that it is unable to obtain and evaluate the relevant information within the period of retained jurisdiction, or where the court concludes that a hearing is required and is unable to obtain the defendant's presence for such a hearing within such period, the court may decide whether to place the defendant on probation or release jurisdiction within a reasonable time, not to exceed thirty (30) days, after the period of retained jurisdiction has expired. Placement on probation shall be under such terms and conditions as the court deems necessary and appropriate. The court in its discretion may sentence a defendant to more than one (1) period of retained jurisdiction

after a defendant has been placed on probation in a case or following release from commitment to the department of juvenile corrections pursuant to section 19-2601A, Idaho Code. In no case shall the board of correction or its agent, the department of correction, be required to hold a hearing of any kind with respect to a recommendation to the court for the grant or denial of probation. Probation is a matter left to the sound discretion of the court. Any recommendation made by the state board of correction to the court regarding the prisoner shall be in the nature of an addendum to the presentence report. The board of correction and its agency, the department of correction, and their employees shall not be held financially responsible for damages, injunctive or declaratory relief for any recommendation made to the district court under this section.

5. If the crime involved is a felony and if judgment is withheld as provided in subsection 3. of this section or if judgment and a sentence of custody to the state board of correction is suspended at the time of judgment in accordance with subsection 2. of this section or as provided by subsection 4. of this section, the court may place the defendant on probation. If the court places the defendant on probation to the board of correction, the court shall include in the terms and conditions of probation a requirement that the defendant enter into and comply with an agreement of supervision with the board of correction. The agreement of supervision shall include provisions setting forth the potential sanctions for a violation of the terms or conditions imposed and potential rewards for compliance with the terms and conditions imposed, as such sanctions and rewards are set forth in rules of the board of correction.

6. If the crime involved is a misdemeanor, indictable or otherwise, or if the court should suspend any remaining portion of a jail sentence already commuted in accordance with subsection 1. of this section, the court, if it grants probation, may place the defendant on probation.

7. The period of probation ordered by a court under this section under a conviction or plea of guilty for a misdemeanor, indictable or otherwise, may be for a period of not more than two (2) years; provided that the court may extend the period of probation to include the period of time during which the defendant is a participant in a problem solving court program and for a period of up to one (1) year after a defendant's graduation or termination from a problem solving court program. Under a conviction or plea of guilty for a felony the period of probation may be for a period of not more than the maximum period for which the defendant might have been imprisoned.

Approved March 19, 2018

CHAPTER 126
(H.B. No. 357)

AN ACT

RELATING TO COURTS; AMENDING SECTION 1-2303, IDAHO CODE, TO REVISE PROVISIONS REGARDING WHEN AN ANSWER MUST BE FILED FOR CERTAIN CLAIMS.

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

SECTION 1. That Section 1-2303, Idaho Code, be, and the same is hereby amended to read as follows:

1-2303. FILING OF CLAIM -- DEFAULT. (1) Upon filing a claim, the clerk shall furnish to the plaintiff a form of answer and instructions to the defendant, which among other matters shall advise the defendant that if the defendant desires to have a hearing on the matter, the defendant must sign, complete and file the answer with the clerk. The instructions also shall no-

tify the defendant that if the defendant does not sign and file the answer within twenty-one (201) days from the date of service on the defendant, judgment will be entered as requested in the claim.

(2) If no answer is filed within twenty-one (201) days, judgment may be entered by the court as provided in Rule 55, I.R.C.P. If an answer is filed by the defendant, the court shall set the matter for trial or mediation by notice mailed to each party.

(3) The court shall collect in advance upon each claim the sum of thirty-three dollars (\$33.00), which shall be in addition to the costs necessary to effect service of the claim upon the defendant. This fee shall be distributed as follows: seven dollars (\$7.00) shall be paid to the county treasurer for deposit in the district court fund of the county; six dollars (\$6.00) shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fee to the state treasurer for deposit in the senior magistrate judges fund; and twenty dollars (\$20.00) shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit into the court technology fund.

Approved March 19, 2018

CHAPTER 127
(H.B. No. 544)

AN ACT

RELATING TO MANAGEMENT OF STATE FACILITIES; AMENDING SECTION 67-5709, IDAHO CODE, TO PROVIDE THAT RENTAL RATES AT MULTIAGENCY FACILITIES SHALL INCLUDE A PROVISION SUFFICIENT TO PROVIDE FOR THE LONG-TERM MAINTENANCE AND UPKEEP OF THE FACILITIES, SUBJECT TO THE REVIEW AND APPROVAL OF THE PERMANENT BUILDING FUND ADVISORY COUNCIL AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 67-5709, Idaho Code, be, and the same is hereby amended to read as follows:

67-5709. MANAGEMENT OF STATE FACILITIES. (1) In addition to the authority granted by section 67-1603, Idaho Code, the director of the department of administration shall have exclusive control of the capitol mall properties identified in subsection (2) of this section and shall have authority to promulgate rules relating to use of those properties, including the authority to promulgate rules requiring a permit for various uses of the capitol mall properties. Violations of rules promulgated under this section shall be infractions. The director shall have authority to sue to enjoin any threatened or continuing violation of such rules.

(2) Except as otherwise provided by law, the capitol mall properties shall include state of Idaho lands and buildings, together with any appurtenant grounds and systems including, but not limited to, electrical, plumbing, sewer, water, heating, ventilation and air conditioning systems as well as geothermal systems and tunnels, located between blocks one (1) and one hundred thirty-six (136) as shown on the Boise City original townsite plat filed in the Ada County recorder's office in book 1 on page 1. Subject to the following, the capitol mall properties shall be identified in rules promulgated pursuant to this section:

(a) At a minimum, the capitol mall properties shall consist of the following grounds, buildings, improvements and real property in Boise, Idaho: Joe R. Williams (700 W. State street), Len B. Jordan (650 W.

State street), Pete T. Cenarrusa (450 W. State street), Division of Public Works (502 N. 4th street), Alexander House (304 W. State street), State Library (325 W. State street), Secretary of State (450 N. 4th street), 954 Jefferson (954 W. Jefferson street), Capitol Annex (514 W. Jefferson street), Borah Building (304 N. 8th street), and Steunenberg Monument Park (intersection of Capitol boulevard and Bannock street), and the Idaho Supreme Court (451 W. State street); provided, that the Idaho supreme court may regulate uses at the Idaho supreme court building and its grounds.

(b) The parking facilities, including appurtenant grounds and systems, at the following locations in Boise, Idaho, shall also be within the capitol mall properties: West State street parking facility, occupying block 101 as shown on the Boise City original townsite plat; 3rd street and Washington street parking facility, occupying a portion of block 105 as shown on the Boise City original townsite plat; 6th street and Washington street parking facility, occupying a portion of block 96 as shown on the Boise City original townsite plat; 8th street and Jefferson street parking facility, occupying a portion of block 66 as shown on the Boise City original townsite plat; and 10th street and Jefferson parking facility, occupying a portion of block 68 as shown on the Boise City original townsite plat.

(c) The space within the interior of the capitol building shall be allocated and controlled as set forth in section 67-1602, Idaho Code; provided however, that the executive and legislative departments may subject all or a part of such space to the rules promulgated pursuant to this section as set forth in subsection (3) of this section.

(3) Rules promulgated pursuant to this section shall apply to properties not within the capitol mall properties upon the request of the state of Idaho public entity owning or controlling the property. When such a request has been made, the property subject to the request shall be identified by the director of the department of administration in rules promulgated under this section. Violations of the rules adopted under this section shall be infractions. The director of the department of administration and the governing authority of the requesting entity shall have the authority to sue to enjoin any threatened or continuing violation of such rules. All state law enforcement personnel, any sheriff or deputy sheriff in a county in which the property is located and any police officer in a city in which the property is located shall have authority to enforce the rules for that property.

(4) Responsibility for law enforcement at the capitol mall properties is vested in the director of the Idaho state police. In coordination with the director of the Idaho state police, Ada County and the city of Boise are granted jurisdiction to enforce the laws of the state of Idaho, the ordinances of Ada County, the ordinances of the city of Boise and the rules promulgated pursuant to this section. The director of the department of administration, or his designee, shall be responsible for security at the capitol mall properties and has the authority to contract with private contractors to provide security for persons and property at the capitol mall properties.

(5) The director of the department of administration may pay personnel costs and operating expenditures incurred in the operation and management of the capitol mall properties and the ~~multi-agency~~ multiagency facilities constructed through the state building authority from the rents received therefrom. In addition to funding annual operating costs, rental rates at multiagency facilities shall include a provision sufficient to provide for the long-term maintenance and upkeep of the facilities, subject to the review and approval of the permanent building fund advisory council. Proceeds accruing from such rental contracts and lease agreements after payment of personnel costs and operating expenditures which are in excess of two hundred thousand dollars (\$200,000) at the end of the fiscal year shall be deposited to the credit of the permanent building ~~account~~ fund. Proceeds

from the rental of parking spaces at the capitol mall shall be deposited upon receipt to the credit of the permanent building ~~account~~ fund. Said proceeds shall not be expended without an appropriation and shall only be appropriated for the security, maintenance and upkeep of the capitol mall properties.

(6) Nothing contained in this section shall be deemed to give the department of administration control or management over the garden level, the first, third or fourth floors of the state capitol building, which are vested with the legislative branch of government.

Approved March 19, 2018

CHAPTER 128
(H.B. No. 459)

AN ACT

RELATING TO REAL ESTATE APPRAISERS; AMENDING SECTION 54-4104, IDAHO CODE, TO DEFINE A TERM AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING CHAPTER 41, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-4105A, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR CERTAIN APPRAISAL REVIEWS.

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

SECTION 1. That Section 54-4104, Idaho Code, be, and the same is hereby amended to read as follows:

54-4104. DEFINITIONS. As used in this chapter:

(1) "Appraisal" or "real estate appraisal" means an opinion or conclusion of value of identified real estate.

(2) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased opinion or conclusion relating to the value of identified real estate.

(3) "Appraisal foundation" or "foundation" means the appraisal foundation established on November 20, 1987, as a not-for-profit corporation under the laws of Illinois.

(4) "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.

(5) "Board" means the real estate appraiser board.

(56) "Broker's price opinion" means a written price opinion of the estimated price for identified real property that is prepared by a real estate broker or associate broker licensed under chapter 20, title 54, Idaho Code, pursuant to the requirements and content provisions for the broker's price opinions contained in this chapter.

(67) "Federally related transaction" means any real estate-related financial transaction that a federally regulated institution, regulatory agency, or the resolution trust corporation engages in, funds, contracts for, or regulates.

(78) "License" or "certificate" means that document issued by the real estate appraiser board certifying that the person named thereon has satis-

fied the requirements for licensure or certification as a state licensed or certified real estate appraiser and bearing a license or certificate number assigned by the board.

(89) "Noncomplex appraisal" is one in which the subject property has an active market of essentially identical properties, there is adequate market data available, adjustments do not exceed the typical range found in the market for essentially identical properties, and in the instance of residential property, the contract sales price would fall within the market norm for homes or lots within the same area.

(910) "Real estate appraiser" or "appraiser" means a person who, for a fee or other valuable consideration or the expectation thereof, develops and communicates real estate appraisals or otherwise gives an opinion of the value of real estate or any interest therein.

(101) "Real estate-related financial transaction" means any transaction involving:

(a) The sale, lease, purchase, investment in or exchange of real property, including interest in property or the financing thereof;

(b) The financing or refinancing of real property, or any interest in real property;

(c) The use of real property or an interest in real property as security for a loan or investment, including a mortgage-backed security.

(112) "Real property" or "real estate" means and includes leaseholds as well as any other interest or estate in land, whether corporeal, incorporeal, freehold or nonfreehold and whether situated in this state or elsewhere.

(123) "State certified general real estate appraiser" means a person who is certified to appraise all types of real property.

(134) "State certified residential real estate appraiser" means a person who holds a current, valid certificate as a state certified residential appraiser issued under the provisions of this chapter whose practice is limited to appraisal of residential properties of four (4) or less fewer units without regard to transaction value or complexity.

(145) "State licensed residential real estate appraiser" means a person who is licensed to appraise residential real property consisting of one (1) to four (4) noncomplex residential units having a transaction value less than one million dollars (\$1,000,000) and complex one (1) to four (4) residential units having a transaction value less than two hundred fifty thousand dollars (\$250,000).

SECTION 2. That Chapter 41, 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 54-4105A, Idaho Code, and to read as follows:

54-4105A. APPRAISAL REVIEW. Any person who performs an appraisal review shall be licensed or certified by the board or by another state, provided that if a value opinion is provided, the person must be licensed by the board. A person performing a review that does not fall under the definition of an appraisal review is not required to be certified or licensed in any state.

Approved March 19, 2018

CHAPTER 129
(H.B. No. 458)

AN ACT

RELATING TO THE IDAHO ARCHITECTURE PRACTICE ACT; REPEALING CHAPTER 3, TITLE 54, IDAHO CODE, RELATING TO THE PRACTICE OF ARCHITECTURE; AND AMENDING TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 3, TITLE 54, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO PROVIDE DEFINITIONS, TO PROVIDE REQUIREMENTS REGARDING AN ARCHITECT'S SEAL, TO REQUIRE LICENSURE, TO PROVIDE EXEMPTIONS, TO CREATE A BOARD OF ARCHITECTURAL EXAMINERS, TO PROVIDE FOR THE POWERS OF THE BOARD, TO PROVIDE QUALIFICATIONS FOR LICENSURE, TO AUTHORIZE LICENSURE BY ENDORSEMENT, TO AUTHORIZE A TEMPORARY LICENSE, TO PROVIDE FOR LICENSE RENEWAL AND REINSTATEMENT, TO AUTHORIZE THE ESTABLISHMENT OF FEES BY BOARD RULE, TO PROVIDE FOR POWERS OF DISCIPLINE AND TO FILE FOR AN INJUNCTION, TO PROVIDE THAT CERTAIN ACTS ARE MISDEMEANORS, AND PROVIDING SEVERABILITY.

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

SECTION 1. That Chapter 3, 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 3, Title 54, Idaho Code, and to read as follows:

CHAPTER 3
ARCHITECTURE PRACTICE ACT

54-301. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Architecture Practice Act."

54-302. LEGISLATIVE INTENT. The practice of architecture in the state of Idaho is hereby declared to affect the public health, safety and welfare and to be subject to regulation and control in the public interest to protect the public from the unprofessional, improper, unauthorized and unqualified practice of architecture and from unprofessional conduct by persons licensed to practice architecture. This act should be liberally construed to carry out these objectives and purposes.

54-303. DEFINITIONS. As used in this chapter:

(1) "Architect" means a person who engages in the practice of architecture as defined in this section and is licensed under the provisions of this chapter.

(2) "Architectural intern" means a person enrolled in a national council of architectural registration boards' architectural experience program and who, in fulfillment of the requirements of that program, is working under the direct supervision of an architect licensed under this chapter.

(3) "Board" means the board of architectural examiners.

(4) "Building" means an enclosure, including related improvements, that has as its principal purpose the adaptation of space for occupancy or habitation by human beings.

(5) "Practice of architecture" means rendering or offering those services described in this subsection in connection with the design, construction, enlargement or alteration of a building or a group of buildings. The services covered within this definition include architectural planning, advice and consultation; providing preliminary studies; architectural

designs, drawings and specifications; technical submissions; and administration of construction contracts.

(6) "Prototypical building" means any commercial building or space within a commercial building that is intended to be constructed in multiple locations, that has been constructed in multiple locations and that conveys an owner's intended uniform business program, plan or image.

(7) "Prototypical building documents" means technical submissions for prototypical buildings that:

(a) Are prepared by or under the responsible control of an architect then licensed in any jurisdiction and holding the certification issued by the national council of architectural registration boards;

(b) Identify the architect, together with the architect's license number and jurisdiction or the architect's license and national council of architectural registration boards certification number; and

(c) Are marked "prototypical design documents not for construction." Prototypical building documents do not comprise a final, comprehensive set of design and construction documents because a prototypical building also requires adaptations for local conditions, including site conditions and may require additional design.

(8) "Responsible control" means that amount of control over and detailed knowledge of the content of technical submissions during their preparation as is ordinarily exercised by registered architects applying the required professional standard of care. Reviewing, or reviewing and correcting, technical submissions after they have been prepared by others does not constitute the exercise of responsible control because the reviewer has neither control over nor detailed knowledge of the content of such submissions throughout their preparation.

(9) "Technical submissions" involving the practice of architecture consist of designs, drawings, specifications, studies and other technical reports prepared in the course of practicing architecture.

54-304. ARCHITECT'S SEAL. (1) Every licensed architect shall have a seal, the impression of which must contain the name and Idaho architect license number of the architect and the words "licensed architect" and "state of Idaho," with which he shall seal all technical submissions issued from his office.

(2) The seal, signature and date may be manually or electronically applied. Whenever the seal is applied to a technical submission, the signature of the architect and the date thereof shall be written adjacent to or across the seal. The signature, date and seal shall appear on all technical submissions prepared by the architect or that meet the requirements set forth in subsection (4) of this section. Only the title page of reports, specifications and like documents must bear the date and the seal and signature of the architect. It is the responsibility of the architect sealing the document to provide adequate security when documents with electronic seals are distributed. Electronically produced documents distributed for informational uses, such as for bidding purposes or as working copies, may be issued with only the architect's seal if:

(a) The copy includes a notice that the original document is on file with the date and architect's signature;

(b) The words "original signed by" and "date original signed" are placed adjacent to or across the seal on the electronic document; and

(c) The storage location of the original document is identified.

The design and use of the seal shall be as required by board rule.

(3) Technical submissions involving the practice of architecture that are submitted to any public or governmental agency for the purpose of obtaining a building permit that are not clearly identified by the affixed seal of the architect and the signature of the architect and date thereof shall be

deemed unacceptable submissions for the purpose of obtaining a building permit.

(4) An architect may sign and seal technical submissions only if the technical submissions were:

(a) Prepared by the architect;

(b) Prepared by persons under the architect's responsible control;

(c) Prepared by another architect licensed in Idaho if the signing and sealing architect has reviewed the other architect's work and either has coordinated the preparation of the work or has integrated the work into his own technical submissions; or

(d) Prepared by another architect licensed in any state and holding the certification issued by the national council of architectural registration boards if:

(i) The signing and sealing architect has reviewed the other architect's work and has integrated the work into his own technical submissions; and

(ii) The other architect's technical submissions are prototypical building documents.

(5) An architect may sign and seal drawings, specifications or other work that is not required to be prepared by an architect if the architect has reviewed the work and has integrated it into his own technical submissions.

(6) Any licensed architect signing or sealing technical submissions not prepared by that architect but prepared under the architect's responsible control by persons not regularly employed in the office where the architect is resident shall maintain and make available to the board upon request, for at least five (5) years following the signing and sealing, adequate and complete records demonstrating the nature and extent of the architect's control over and detailed knowledge of the technical submissions throughout their preparation. Any licensed architect signing or sealing technical submissions integrating the work of another architect into the registered architect's own work, as permitted under subsection (4) (c) or (d) of this section, shall maintain adequate and complete records demonstrating the nature and extent of the registered architect's review of and integration of the work of the other architect into his own technical submissions and that such review and integration met the required professional standard of care. Such records shall be maintained and made available to the board, upon request, for at least five (5) years following the signing and sealing of the technical submissions.

54-305. LICENSE REQUIRED. (1) Every person practicing or offering to practice architecture as defined in this chapter and not otherwise exempted shall have a separate license under his own name. A license shall not be issued in the name of any firm or corporation.

(2) The holder of a license shall not maintain in the practice of architecture any person who does not hold a license to practice architecture in this state, unless the unlicensed person works under the responsible control of his licensed supervisor.

54-306. EXEMPTIONS. Nothing contained in this chapter shall be held or construed to have any application to, or to prevent or affect, the following:

(1) The practice of engineering or any other profession or trade for which a license is required under any law of this state, or the practice of consultants, officers and employees of the United States while engaged solely in the practice of architecture for said government.

(2) Draftsmen, students, clerks of work, project representatives and others working under the supervision of those lawfully practicing as architects under the provisions of this chapter from acting under the instruction, control or supervision of their supervisors, or to prevent the employment of clerks of work or inspectors of buildings paid by the owners from act-

ing, if under the control or direction of a licensed architect who has prepared the drawings and specifications for the building.

(3) The rendering of any architectural service required in the erection, enlargement, alteration or repair of any building, where the building is to be or is used as a single or multiple family residence not exceeding three (3) units or three (3) stories in height; or as a farm building; or for the purpose of outbuildings or auxiliary buildings in connection with the residential or farm premises.

(4) The rendering of any architectural service required in the erection, enlargement, alteration or repair of any building that does not involve the public health or safety.

(5) The preparation of shop drawings by persons other than architects for use in connection with the execution of their work; or the preparation of drawings of fixtures or other appliances or equipment, or for any work necessary to provide for their installation.

(6) Expert consultation rendered to an architect by a consultant, whether licensed or not, employed by the architect to consult, advise and assist as long as the architect approves, adopts and is responsible for the results of the consultation, advice and assistance.

(7) An intern working under the supervision of a licensed architect, including the use of the title "architectural intern," as may be established and limited by board rule.

54-307. BOARD -- ORGANIZATION AND MEETINGS. (1) There is hereby created in the department of self-governing agencies 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.

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 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.

54-309. QUALIFICATIONS FOR LICENSURE. (1) An applicant shall be eligible to be licensed as an architect if the applicant:

(a) Passes all examination divisions of the architectural registration examination (ARE) or an examination that is approved by the board; and

(b) Has completed an architectural experience program deemed satisfactory to the board indicating that the applicant is competent to practice architecture.

(2) A person is eligible to take the ARE if that person:

(a) Holds a professional degree in architecture from a program that is accredited by the national architectural accrediting board or that is approved by the board; and

(b) Has started or completed an architectural experience program deemed satisfactory to the board.

(3) In lieu of holding a professional degree in architecture as required by subsection (2) (a) of this section, an applicant may provide to the board satisfactory evidence of knowledge and skill approximating that attained through graduation from an approved architectural curriculum by showing a specific record of eight (8) or more years of experience in architectural work of a character deemed satisfactory to the board. This experience may also include that necessary to satisfy the architectural work experience program requirements of subsections (1) (b) and (2) (b) of this section.

54-310. LICENSE BY ENDORSEMENT. The board may grant a license to any person who, at the time of application, holds a valid and current license in good standing as an architect issued by the authorized regulatory entity of another state, territory or jurisdiction of the United States, provided that the requirements for licensure are substantially equivalent to the requirements for licensure under this chapter, and upon payment of a fee set in rule by the board.

54-311. TEMPORARY LICENSE. (1) The board may grant a temporary license to any person who, for the purpose of offering to render architectural services and for that purpose only, has submitted to the board a complete application for an architect's license under this chapter and who, at the time of application, holds a valid and current license in good standing as an architect issued by the authorized regulatory entity of another state, territory or jurisdiction of the United States.

(2) A temporary license is valid for six (6) months from the date it is issued. A temporary license is nonrenewable and shall expire automatically upon issuance of a full initial license.

54-312. RENEWAL AND REINSTATEMENT. All licenses issued under the provisions of this chapter, except for temporary licenses, shall be for a term of one (1) year and shall expire on the birthday of the licensee unless renewed in the manner prescribed by rule. License renewal and reinstatement shall be in accordance with section 67-2614, Idaho Code.

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 nonrefundable and shall be deposited in the state treasury to the credit of the occupational licenses account 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, and the funds collected hereunder shall be immediately available for such purposes, the provisions of any other law notwithstanding.

54-314. DISCIPLINE -- INJUNCTION. (1) The board shall have the authority to sanction any license issued pursuant to the provisions of this chapter for any of the following:

(a) Fraud or deception in applying for, procuring or renewing a license under this chapter;

(b) Fraud or deceit in the practice of architecture or in procuring any contract in the practice of architecture;

(c) Incompetence or gross negligence or recklessness in the practice of architecture;

(d) A conviction, finding of guilt, receipt of a withheld judgment or suspended sentence in this or any other state, territory, country or jurisdiction for a felony or a misdemeanor, which misdemeanor involved a violation of the provisions of this chapter, a willful violation of state or local building codes, or a violation of other laws relating to the public health and safety and that were committed in the course of practicing architecture;

(e) Affixing his signature to, or impressing his seal upon, any plans, drawings, specifications or other instruments of service that have not been prepared by him, or under his responsible control, or permitting his name to be used for the purpose of assisting any person who is not a licensed architect to evade the provisions of this chapter;

(f) Receiving rebates, commissions, grants of money or other favors in connection with the work, without the knowledge of the party for whom he is working, or having a pecuniary interest in the performance of the contract for the work designed, planned or supervised by him without the knowledge and consent of the owner;

(g) Unethical or unprofessional conduct as defined by the rules of the board or the code of ethics established by the rules of the board;

(h) Practicing architecture or representing oneself as a licensed architect when unlicensed, in violation of licensing laws of the jurisdiction in which the conduct took place;

(i) Having had any professional or occupational license revoked, suspended or otherwise disciplined in Idaho or any other state, territory, country or jurisdiction;

(j) Failing to maintain the requirements for a license, including not fulfilling the continuing education requirement for license renewal established by the board in rule;

(k) Failing to comply with a board order; or

(l) Violating any of the provisions of this chapter or any of the rules promulgated by the board under the authority of this chapter.

(2) Sanctions that the board may impose include one (1) or more of the following:

(a) Refusal to grant or renew a license;

(b) Revocation of a license;

(c) Suspension of a license for a period not to exceed two (2) years;

(d) Restriction of a license to prohibit the offender from performing certain acts or from engaging in the practice of architecture in a particular manner for a period not to exceed two (2) years;

(e) Placement of the offender on probation and supervision by the board for a period not to exceed two (2) years; and

(f) Imposition of an administrative fine not to exceed two thousand dollars (\$2,000) per violation.

(3) The procedures for disciplinary proceedings shall be in compliance with the Idaho administrative procedure act and the rules of the office of the attorney general and the bureau of occupational licenses.

(4) The board or any resident citizen may maintain an action in equity in the name of the state of Idaho to enjoin perpetually any person, firm, company, corporation or partnership from persisting in the doing of any acts constituting a violation of this chapter. Such action shall be brought in

the district court of the county in which said act or acts or some of them are claimed to have been or are being committed, by filing a complaint setting forth the acts. The court, or a judge thereof at chambers, if satisfied from the complaint or by affidavits that the acts complained of have been or are being committed and will probably be persisted in, may issue a temporary writ enjoining the defendant from the commission of any such act or acts pending final disposition of the case. The case shall proceed as in other cases for injunction. If at the trial the commission of the act or acts by the defendant is established, and the court further finds that it is probable that the defendant will continue therein or in similar violations, the court, or a judge thereof at chambers, shall enter a decree perpetually enjoining the defendant from thereafter committing said or similar acts.

54-315. CERTAIN ACTS A MISDEMEANOR. (1) The following acts shall be unlawful and punishable as a misdemeanor:

(a) Practicing or offering to engage in the practice of architecture, as defined in this chapter, without having at the time of so doing a valid, unexpired, unrevoked and unsuspended license issued under this chapter;

(b) Aiding and abetting the unlicensed practice of architecture in this state; and

(c) Representing oneself to be an architect or implying that he is an architect, as defined in this chapter, through the use of the word architect, architecture, architectural or similar terms, without having at the time of so doing a valid architect's license issued under this chapter.

(2) The provisions of this section do not apply to:

(a) Persons who use the term "landscape architect"; or

(b) Persons previously licensed as an architect in good standing in this or in any other state, territory, country or jurisdiction whose license has lapsed based upon retirement, for the purpose of identifying the person's profession but not for the purpose of practicing architecture.

54-316. SEVERABILITY. The provisions of this chapter are hereby declared to be severable and if any provision of this chapter or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining provisions of this chapter.

Approved March 19, 2018

CHAPTER 130
(H.B. No. 471)

AN ACT

RELATING TO MINIMUM SPEED REGULATION; AMENDING SECTION 49-655, IDAHO CODE, TO PROVIDE THAT NOTWITHSTANDING ANY MINIMUM SPEED THAT MAY BE AUTHORIZED AND POSTED, NO PERSON SHALL OPERATE A VEHICLE IN THE EXTREME LEFT-HAND LANE OF A CONTROLLED-ACCESS HIGHWAY FOR A PERIOD OF TIME THAT IMPEDES THE FLOW OF OTHER TRAFFIC TRAVELING AT A LAWFUL RATE OF SPEED.

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

SECTION 1. That Section 49-655, Idaho Code, be, and the same is hereby amended to read as follows:

49-655. MINIMUM SPEED REGULATION. No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with the law. Notwithstanding any minimum speed that may be authorized and posted pursuant to this section, no person shall operate a vehicle in the extreme left-hand lane of a controlled-access highway for a period of time that impedes the flow of other traffic traveling at a lawful rate of speed.

Approved March 19, 2018

CHAPTER 131
(H.B. No. 654)

AN ACT

RELATING TO THE APPROPRIATION TO IDAHO PUBLIC TELEVISION FOR FISCAL YEAR 2019; APPROPRIATING MONEYS TO IDAHO PUBLIC TELEVISION FOR FISCAL YEAR 2019; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to Idaho Public Television the following amounts to be expended for the designated expense classes from the listed funds for the period July 1, 2018, through June 30, 2019:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General				
Fund	\$1,403,900	\$1,078,400	\$103,000	\$2,585,300
Miscellaneous Revenue				
Fund	3,538,900	2,429,000	155,000	6,122,900
Technology Infrastructure Stabilization				
Fund			400,000	400,000
Federal Grant				
Fund	<u>30,600</u>	<u>43,500</u>	<u>266,300</u>	<u>340,400</u>
TOTAL	\$4,973,400	\$3,550,900	\$924,300	\$9,448,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, Idaho Public Television is authorized no more than sixty-eight and forty-eight hundredths (68.48) full-time equivalent positions at any point during the period July 1, 2018, through June 30, 2019, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 19, 2018

CHAPTER 132
(H.B. No. 653)

AN ACT

RELATING TO THE APPROPRIATION TO THE DIVISION OF FINANCIAL MANAGEMENT FOR FISCAL YEAR 2019; APPROPRIATING MONEYS TO THE DIVISION OF FINANCIAL MANAGEMENT FOR FISCAL YEAR 2019; 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 Financial Management the following amounts to be expended for the designated expense classes from the listed funds for the period July 1, 2018, through June 30, 2019:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General			
Fund	\$1,717,700	\$169,800	\$1,887,500
Miscellaneous Revenue			
Fund	<u>39,100</u>	<u>32,100</u>	<u>71,200</u>
TOTAL	\$1,756,800	\$201,900	\$1,958,700

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Division of Financial Management is authorized no more than fifteen (15.00) full-time equivalent positions at any point during the period July 1, 2018, through June 30, 2019, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 19, 2018

CHAPTER 133
(H.B. No. 652)

AN ACT

RELATING TO THE APPROPRIATION TO THE BOARD OF TAX APPEALS FOR FISCAL YEAR 2019; APPROPRIATING MONEYS TO THE BOARD OF TAX APPEALS FOR FISCAL YEAR 2019; 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 Board of Tax Appeals from the General Fund the following amounts to be expended for the designated expense classes for the period July 1, 2018, through June 30, 2019:

FOR:

Personnel Costs	\$522,400
Operating Expenditures	81,900
Capital Outlay	<u>4,300</u>
TOTAL	\$608,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Board of Tax Appeals is authorized no more than five (5.00) full-time equivalent positions at any point during the period July 1, 2018, through June 30, 2019, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 19, 2018

CHAPTER 134
(H.B. No. 651)

AN ACT

RELATING TO THE APPROPRIATION TO THE OFFICE OF SPECIES CONSERVATION FOR FISCAL YEAR 2019; APPROPRIATING MONEYS TO THE OFFICE OF SPECIES CONSERVATION FOR FISCAL YEAR 2019; 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 for the designated expense classes from the listed funds for the period July 1, 2018, through June 30, 2019:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$648,600	\$742,200	\$6,400		\$1,397,200
Miscellaneous Revenue					
Fund		15,000			15,000
Federal Grant					
Fund	<u>634,800</u>	<u>198,000</u>	<u>0</u>	<u>\$12,000,000</u>	<u>12,832,800</u>
TOTAL	\$1,283,400	\$955,200	\$6,400	\$12,000,000	\$14,245,000

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Office of Species Conservation is authorized no more than fourteen (14.00) full-time equivalent positions at any point during the period July 1, 2018, through June 30, 2019, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 19, 2018

CHAPTER 135
(H.B. No. 646)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR FISCAL YEAR 2019; APPROPRIATING MONEYS TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR FISCAL YEAR 2019; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Department of Juvenile Corrections the following amounts to be expended according to the designated programs and expense classes from the listed funds for the period July 1, 2018, through June 30, 2019:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General					
Fund	\$2,942,600	\$827,300		\$60,000	\$3,829,900
Miscellaneous Revenue					
Fund	90,500	191,400			281,900
State Juvenile Corrections Center Endowment Income					
Fund	<u>0</u>	<u>0</u>	<u>\$220,700</u>	<u>0</u>	<u>220,700</u>
TOTAL	\$3,033,100	\$1,018,700	\$220,700	\$60,000	\$4,332,500
II. COMMUNITY, OPERATIONS, AND PROGRAM SERVICES:					
FROM:					
General					
Fund	\$1,240,600	\$219,700		\$4,393,900	\$5,854,200
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>162,300</u>	<u>199,600</u>		<u>521,000</u>	<u>882,900</u>
TOTAL	\$1,402,900	\$529,300		\$9,616,900	\$11,549,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. INSTITUTIONS:					
FROM:					
General					
Fund	\$22,684,400	\$2,002,800	\$1,200	\$4,239,800	\$28,928,200
Miscellaneous Revenue					
Fund	21,900	238,600		460,000	720,500
State Juvenile Corrections Center Endowment Income					
Fund		1,124,400	152,800		1,277,200
Federal Grant					
Fund	<u>174,000</u>	<u>768,400</u>	<u>0</u>	<u>1,195,400</u>	<u>2,137,800</u>
TOTAL	\$22,880,300	\$4,134,200	\$154,000	\$5,895,200	\$33,063,700

IV. COMMUNITY-BASED SUBSTANCE ABUSE TREATMENT SERVICES:

FROM:

General

Fund	\$181,600	\$193,600		\$2,783,700	\$3,158,900
GRAND TOTAL	\$27,497,900	\$5,875,800	\$374,700	\$18,355,800	\$52,104,200

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, 2018, through June 30, 2019, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 19, 2018

CHAPTER 136
(H.B. No. 635)

AN ACT

RELATING TO THE APPROPRIATION TO THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 2019; APPROPRIATING MONEYS TO THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 2019; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Commission for the Blind and Visually Impaired the following amounts to be expended for the designated expense classes from the listed funds for the period July 1, 2018, through June 30, 2019:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$801,200	\$73,400	\$599,200	\$1,473,800
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	20,500	47,900		68,400
Federal Grant				
Fund	<u>2,114,400</u>	<u>600,100</u>	<u>470,300</u>	<u>3,184,800</u>
TOTAL	\$2,936,100	\$811,400	\$1,238,900	\$4,986,400

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, 2018, through June 30, 2019, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 19, 2018

CHAPTER 137
(H.B. No. 486)

AN ACT
RELATING TO THE STATE HISTORICAL SOCIETY; AMENDING SECTION 67-4112, IDAHO CODE, TO REVISE A DEFINITION.

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

SECTION 1. That Section 67-4112, Idaho Code, be, and the same is hereby amended to read as follows:

67-4112. DEFINITIONS. As used in this chapter:

(1) "Board" means the board of trustees of the Idaho state historical society.

(2) "Historical record" means any record, artifact, object, historical or archaeological site or structure, document, evidence or public or private writing pursuant to the provisions of title 9, Idaho Code, relevant to the history of the state of Idaho.

(3) "Idaho state historical society" and "society" mean the educational institution pursuant to chapter 41, title 67, Idaho Code. The society includes the Idaho state museum, the Idaho state archives and state records center, the state historic preservation office, and operates in public trust state historic sites, including the old Idaho penitentiary, John and Ann Doney house, the Lorenzo Hill Hatch house, Franklin relic hall, Franklin co-operative mercantile institution, Rock Creek station and Stricker homesite, and Pierce courthouse.

Approved March 19, 2018

CHAPTER 138
(H.B. No. 472)

AN ACT

RELATING TO RURAL PHYSICIAN INCENTIVE FEES; AMENDING SECTION 33-3723, IDAHO CODE, TO PROVIDE A STATE MATCH FOR STUDENT CONTRIBUTIONS TO THE RURAL PHYSICIAN INCENTIVE FUND.

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

SECTION 1. That Section 33-3723, Idaho Code, be, and the same is hereby amended to read as follows:

33-3723. RURAL PHYSICIAN INCENTIVE FEE ASSESSMENT. The state board of education may assess a fee to students preparing to be physicians in the fields of medicine or osteopathic medicine who are supported by the state pursuant to an interstate compact for a professional education program in those fields, as those fields are defined by the compact. The fee may not exceed an amount equal to four percent (4%) of the annual average medicine support fee paid by the state. The fee must be assessed by the board and deposited in the rural physician incentive fund established in section 39-5902, Idaho Code, to be administered by the department of health and welfare. Moneys are also payable into the fund from state appropriations, private contributions, gifts and grants and other sources. Income and earnings on the fund shall be returned to the fund. Subject to appropriation, the state shall match student contributions to the fund at a rate of two state dollars (\$2.00) for every one dollar (\$1.00) assessed as a student fee. The expenses of administering the physician incentive fund portion of the fund shall not exceed ten percent (10%) of the annual fees assessed pursuant to this section.

Approved March 19, 2018

CHAPTER 139
(H.B. No. 543)

AN ACT

RELATING TO SAFETY RESTRAINT USE; AMENDING SECTION 49-673, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE EXEMPTION FROM SAFETY RESTRAINT USE FOR MAIL CARRIERS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 49-673, Idaho Code, be, and the same is hereby amended to read as follows:

49-673. SAFETY RESTRAINT USE. (1) Except as provided in section 49-672, Idaho Code, and subsection (2) of this section, each occupant of a motor vehicle that has a gross vehicle weight of not more than eight thousand (8,000) pounds, and that was manufactured with safety restraints in compliance with federal motor vehicle safety standard no. 208, shall have a safety restraint properly fastened about his the occupant's body at all times when the vehicle is in motion.

(2) The provisions of this section shall not apply to:

(a) An occupant of a motor vehicle who possesses a written statement from a licensed physician that he the occupant is unable for medical reasons to wear a safety restraint;

(b) Occupants of motorcycles, implements of husbandry and emergency vehicles;

(c) Occupants of seats of a motor vehicle in which all safety restraints are then properly in use by other occupants of that vehicle; or

(d) Mail carriers only if all vehicle regulations and safety practices of the United States postal service are adhered to.

(3) (a) A citation may be issued to:

(i) Any occupant of the motor vehicle who is age eighteen (18) years or older who and fails to wear a safety restraint as required in this section; and

(ii) The operator of the motor vehicle ~~if the operator~~ who is age eighteen (18) years or older and if any occupant under eighteen (18) years of age who fails to wear a safety restraint as required in this section. For purposes of this subparagraph ~~(a)-(ii)~~, it shall be deemed a single violation regardless of the number of occupants not properly restrained.

(b) A person issued a citation pursuant to this subsection shall be subject to a fine of ten dollars (\$10.00), with five dollars (\$5.00) of such fine to be apportioned to the catastrophic health care cost fund, as set forth in section 57-813, Idaho Code. A conviction under this subsection shall not result in violation point counts as prescribed in section 49-326, Idaho Code, nor shall such a conviction be deemed to be a moving traffic violation for the purpose of establishing rates of motor vehicle insurance charged by a casualty insurer.

(4) A citation may be issued to the operator of the motor vehicle if the operator is under eighteen (18) years of age and the operator or any other occupant who is under eighteen (18) years of age fails to wear a safety restraint as required in this section. For purposes of this subsection, it shall be deemed a single violation regardless of the number of occupants not properly restrained. A person issued a citation pursuant to this subsection shall be subject to a fine of ten dollars (\$10.00), five dollars (\$5.00) of such fine to be apportioned to the catastrophic health care cost fund as set forth in section 57-813, Idaho Code, plus court costs. A conviction under this subsection shall not result in violation point counts as prescribed in section 49-326, Idaho Code. In addition, a conviction under this subsection shall not be deemed to be a moving traffic violation for the purpose of establishing rates of motor vehicle insurance charged by a casualty insurer.

(5) Enforcement of this section by law enforcement officers may be accomplished only as a secondary action when the operator of the motor vehicle has been detained for a suspected violation of another law.

(6) The department shall initiate and conduct an educational program, to the extent sufficient private donations or federal funds for this specific purpose are available to the department, to encourage compliance with the provisions of this section and to publicize the effectiveness of use of safety restraints and other restraint devices in reducing risk of harm to occupants of motor vehicles.

(7) The department shall evaluate the effectiveness of the provisions of this section and shall include a report of its findings in its annual evaluation report on the Idaho highway safety plan which it submits to the national highway traffic safety administration and federal highway administration pursuant to 23 U.S.C. section 402.

Approved March 19, 2018

CHAPTER 140
(H.B. No. 645)

AN ACT

RELATING TO THE APPROPRIATION TO THE OFFICE OF DRUG POLICY FOR FISCAL YEAR 2019; APPROPRIATING MONEYS TO THE OFFICE OF DRUG POLICY FOR FISCAL YEAR 2019; AND LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the Office of Drug Policy the following amounts to be expended for the designated expense classes from the listed funds for the period July 1, 2018, through June 30, 2019:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General				
Fund	\$284,700	\$54,600		\$339,300
Miscellaneous Revenue				
Fund		24,500		24,500
Idaho Millennium Income				
Fund		60,000		60,000
Federal Grant				
Fund	<u>262,700</u>	<u>425,000</u>	<u>\$3,712,000</u>	<u>4,399,700</u>
TOTAL	\$547,400	\$564,100	\$3,712,000	\$4,823,500

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Office of Drug Policy is authorized no more than six (6.00) full-time equivalent positions at any point during the period July 1, 2018, through June 30, 2019, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 19, 2018

CHAPTER 141
(H.B. No. 650)

AN ACT

RELATING TO THE APPROPRIATION TO THE ENDOWMENT FUND INVESTMENT BOARD FOR FISCAL YEAR 2019; APPROPRIATING MONEYS TO THE ENDOWMENT FUND INVESTMENT BOARD FOR FISCAL YEAR 2019; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING A CONTINUOUS APPROPRIATION FOR CERTAIN COSTS; AND EXPRESSING LEGISLATIVE INTENT REGARDING THE TRANSFER OF MONEYS FROM THE EARNINGS RESERVE FUNDS TO THE INCOME FUNDS.

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

SECTION 1. There is hereby appropriated to the Endowment Fund Investment Board the following amounts to be expended for the designated expense classes from the listed funds for the period July 1, 2018, through June 30, 2019:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Miscellaneous Revenue				
Fund	\$66,200	\$12,900		\$79,100
Endowment Earnings Administrative				
Fund	<u>464,500</u>	<u>177,100</u>	<u>\$2,000</u>	<u>643,600</u>
TOTAL	\$530,700	\$190,000	\$2,000	\$722,700

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Endowment Fund Investment Board is authorized no more than three and seven-tenths (3.70) full-time equivalent positions at any point during the period July 1, 2018, through June 30, 2019, 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, 2018, through June 30, 2019.

SECTION 4. TRANSFERS FROM EARNINGS RESERVE FUNDS. It is the intent of the Legislature that for fiscal year 2019, the Endowment Fund Investment Board shall transfer \$78,206,400 as follows: \$50,325,600 from the Public School Earnings Reserve Fund to the Public School Income Fund; \$1,447,200 from the Agricultural College Earnings Reserve Fund to the Agricultural College Income Fund; \$5,754,000 from the Charitable Institutions Earnings Reserve Fund to the Charitable Institutions Income Fund; \$4,410,000 from the Normal School Earnings Reserve Fund to the Normal School Income Fund; \$2,193,600 from the Penitentiary Earnings Reserve Fund to the Penitentiary Income Fund; \$4,826,400 from the Scientific School Earnings Reserve Fund to the Scientific School Income Fund; \$5,024,400 from the Mental Hospital Earnings Reserve Fund to the Mental Hospital Income Fund; and \$4,225,200 from the University Earnings Reserve Fund to the University Income Fund.

CHAPTER 142
(H.B. No. 606)

AN ACT

RELATING TO THE OPEN MEETINGS LAW; AMENDING SECTION 74-202, IDAHO CODE, TO REVISE THE DEFINITION OF "PUBLIC AGENCY" AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 74-202, IDAHO CODE, RELATING TO OPEN PUBLIC MEETINGS; AMENDING CHAPTER 2, TITLE 74, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 74-202, IDAHO CODE, TO PROVIDE DEFINITIONS FOR OPEN PUBLIC MEETINGS; AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 74-202, Idaho Code, be, and the same is hereby amended to read as follows:

74-202. OPEN PUBLIC MEETINGS -- DEFINITIONS. As used in this chapter:

(1) "Decision" means any determination, action, vote or final disposition upon a motion, proposal, resolution, order, ordinance or measure on which a vote of a governing body is required, at any meeting at which a quorum is present, but shall not include those ministerial or administrative actions necessary to carry out a decision previously adopted in a meeting held in compliance with this chapter.

(2) "Deliberation" means the receipt or exchange of information or opinion relating to a decision, but shall not include informal or impromptu discussions of a general nature ~~which~~ that do not specifically relate to a matter then pending before the public agency for decision.

(3) "Executive session" means any meeting or part of a meeting of a governing body ~~which~~ that is closed to any persons for deliberation on certain matters.

(4) "Public agency" means:

(a) ~~a~~Any state board, committee, council, commission, department, authority, educational institution or other state agency which is created by or pursuant to statute or executive order of the governor, other than courts and their agencies and divisions, and the judicial council, and the district magistrates commission;

(b) ~~a~~Any regional board, commission, department or authority created by or pursuant to statute;

(c) ~~a~~Any county, city, school district, special district, or other municipal corporation or political subdivision of the state of Idaho;

(d) ~~a~~Any subagency of a public agency ~~which is created by or pursuant to statute or executive order of the governor~~, ordinance, or other legislative act; and

(e) Notwithstanding the language of this subsection, the cybersecurity task force or a committee awarding the Idaho medal of achievement shall not constitute a public agency.

(5) "Governing body" means the members of any public agency ~~which~~ that consists of two (2) or more members, with the authority to make decisions for or recommendations to a public agency regarding any matter.

(6) "Meeting" means the convening of a governing body of a public agency to make a decision or to deliberate toward a decision on any matter.

(a) "~~r~~Regular meeting" means the convening of a governing body of a public agency on the date fixed by law or rule, to conduct the business of the agency.

(b) "~~s~~Special meeting" is a convening of the governing body of a public agency pursuant to a special call for the conduct of business as specified in the call.

SECTION 2. That Section 74-202, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Chapter 2, Title 74, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 74-202, Idaho Code, and to read as follows:

74-202. OPEN PUBLIC MEETINGS -- DEFINITIONS. As used in this chapter:

(1) "Decision" means any determination, action, vote or final disposition upon a motion, proposal, resolution, order, ordinance or measure on which a vote of a governing body is required, at any meeting at which a quorum is present, but shall not include those ministerial or administrative actions necessary to carry out a decision previously adopted in a meeting held in compliance with this chapter.

(2) "Deliberation" means the receipt or exchange of information or opinion relating to a decision, but shall not include informal or impromptu discussions of a general nature that do not specifically relate to a matter then pending before the public agency for decision.

(3) "Executive session" means any meeting or part of a meeting of a governing body that is closed to any persons for deliberation on certain matters.

(4) "Public agency" means:

(a) Any state board, commission, department, authority, educational institution or other state agency created by or pursuant to statute, other than courts and their agencies and divisions, and the judicial council, and the district magistrates commission;

(b) Any regional board, commission, department or authority created by or pursuant to statute;

(c) Any county, city, school district, special district, or other municipal corporation or political subdivision of the state of Idaho; and

(d) Any subagency of a public agency created by or pursuant to statute, ordinance, or other legislative act.

(5) "Governing body" means the members of any public agency that consists of two (2) or more members, with the authority to make decisions for or recommendations to a public agency regarding any matter.

(6) "Meeting" means the convening of a governing body of a public agency to make a decision or to deliberate toward a decision on any matter.

(a) "Regular meeting" means the convening of a governing body of a public agency on the date fixed by law or rule, to conduct the business of the agency.

(b) "Special meeting" is a convening of the governing body of a public agency pursuant to a special call for the conduct of business as specified in the call.

SECTION 4. Section 1 of this act shall be in full force and effect on and after July 1, 2018. Sections 2 and 3 of this act shall be in full force and effect on and after July 1, 2023.

Approved March 19, 2018

CHAPTER 143
(S.B. No. 1274, As Amended)

AN ACT

RELATING TO PUBLIC RECORDS; AMENDING SECTION 74-101, IDAHO CODE, TO REVISE THE DEFINITION OF "CUSTODIAN"; AMENDING SECTION 74-102, IDAHO CODE, TO PROVIDE THAT A PUBLIC AGENCY, ELECTED OFFICIAL OR INDEPENDENT PUBLIC BODY CORPORATE AND POLITIC SHALL DESIGNATE A CUSTODIAN OR CUSTODIANS FOR ALL PUBLIC RECORDS; AMENDING SECTION 74-106, IDAHO CODE, TO PROVIDE THAT BONUSES, SEVERANCE PACKAGES, OTHER COMPENSATION OR VOUCHERED AND UNVOUCHERED EXPENSES FOR WHICH REIMBURSEMENT WAS PAID TO A PUBLIC OFFICIAL ARE NOT EXEMPT FROM DISCLOSURE AND TO PROVIDE THAT SOCIAL SECURITY NUMBERS AND DRIVER'S LICENSE NUMBERS SHALL BE EXEMPT FROM DISCLOSURE; AND AMENDING SECTION 74-119, IDAHO CODE, TO PROVIDE THAT PUBLIC AGENCIES SHALL DESIGNATE AT LEAST ONE PERSON AS CUSTODIAN TO RECEIVE PUBLIC RECORDS REQUESTS AND SHALL PROVIDE AN ALTERNATE CUSTODIAN OR ALTERNATE CUSTODIANS FOR CONTINGENCIES.

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

SECTION 1. That Section 74-101, Idaho Code, be, and the same is hereby amended to read as follows:

74-101. DEFINITIONS. As used in this chapter:

(1) "Applicant" means any person formally seeking a paid or volunteer position with a public agency. "Applicant" does not include any person seeking appointment to a position normally filled by election.

(2) "Copy" means transcribing by handwriting, photocopying, duplicating machine and reproducing by any other means so long as the public record is not altered or damaged.

(3) "Custodian" means the person or persons having personal custody and control of the public records in question. ~~If no such designation is made by the public agency or independent public body corporate and politic, then custodian means any public official having custody of, control of, or authorized access to public records and includes all delegates of such officials, employees or representatives.~~

(4) "Independent public body corporate and politic" means the Idaho housing and finance association as created in chapter 62, title 67, Idaho Code.

(5) "Inspect" means the right to listen, view and make notes of public records as long as the public record is not altered or damaged.

(6) "Investigatory record" means information with respect to an identifiable person, group of persons or entities compiled by a public agency or independent public body corporate and politic pursuant to its statutory authority in the course of investigating a specific act, omission, failure to act, or other conduct over which the public agency or independent public body corporate and politic has regulatory authority or law enforcement authority.

(7) "Law enforcement agency" means any state or local agency given law enforcement powers or which has authority to investigate, enforce, prosecute or punish violations of state or federal criminal statutes, ordinances or regulations.

(8) "Local agency" means a county, city, school district, municipal corporation, district, public health district, political subdivision, or any agency thereof, or any committee of a local agency, or any combination thereof.

(9) "Person" means any natural person, corporation, partnership, firm, association, joint venture, state or local agency or any other recognized legal entity.

(10) "Prisoner" means a person who has been convicted of a crime and is either incarcerated or on parole for that crime or who is being held in custody for trial or sentencing.

(11) "Public agency" means any state or local agency as defined in this section.

(12) "Public official" means any state, county, local district, independent public body corporate and politic or governmental official or employee, whether elected, appointed or hired.

(13) "Public record" includes, but is not limited to, any writing containing information relating to the conduct or administration of the public's business prepared, owned, used or retained by any state agency, independent public body corporate and politic or local agency regardless of physical form or characteristics.

(14) "Requester" means the person requesting examination and/or copying of public records pursuant to section 74-102, Idaho Code.

(15) "State agency" means every state officer, department, division, bureau, commission and board or any committee of a state agency including those in the legislative or judicial branch, except the state militia and the Idaho state historical society library and archives.

(16) "Writing" includes, but is not limited to, handwriting, typewriting, printing, photostating, photographing and every means of recording, including letters, words, pictures, sounds or symbols or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums or other documents.

SECTION 2. That Section 74-102, Idaho Code, be, and the same is hereby amended to read as follows:

74-102. PUBLIC RECORDS -- RIGHT TO EXAMINE. (1) Every person has a right to examine and take a copy of any public record of this state and there is a presumption that all public records in Idaho are open at all reasonable times for inspection except as otherwise expressly provided by statute.

(2) The right to copy public records shall include the right to make photographs or photographic or other copies while the records are in the possession of the custodian of the records using equipment provided by the public agency or independent public body corporate and politic or using equipment designated by the custodian.

(3) Additionally, the custodian of any public record shall give the person, on demand, a certified copy of it if the record is of a nature permitting such copying or shall furnish reasonable opportunity to inspect or copy such record.

(4) A public agency or independent public body corporate and politic may require that a request for public records be submitted to it in a writing that provides the requester's name, mailing address, e-mail address and telephone number. A request for public records and delivery of the public records may be made by electronic mail.

(5) The custodian shall make no inquiry of any person who requests a public record, except:

(a) To verify the identity of the requester in accordance with section 74-113, Idaho Code; or

(b) To ensure that the requested record or information will not be used for purposes of a mailing or telephone list prohibited by section 74-120, Idaho Code, or as otherwise provided by law; or

(c) As required for purposes of protecting personal information from disclosure under chapter 2, title 49, Idaho Code, and federal law.

(6) The custodian shall not review, examine or scrutinize any copy, photograph or memoranda in the possession of any such person and shall extend to the person all reasonable comfort and facility for the full exercise of the right granted under this act.

(7) Nothing herein contained shall prevent the custodian from maintaining such vigilance as is required to prevent alteration of any public record while it is being examined.

(8) Examination of public records under the authority of this section must be conducted during regular office or working hours unless the custodian shall authorize examination of records in other than regular office or working hours. In this event, the persons designated to represent the custodian during such examination shall be entitled to reasonable compensation to be paid to them by the public agency or independent public body corporate and politic having custody of such records, out of funds provided in advance by the person examining such records, at other than regular office or working hours.

(9) The public agency or independent public body corporate and politic may provide the requester information to help the requester narrow the scope of the request or to help the requester make the request more specific when the response to the request is likely to be voluminous or require payment as provided in subsection (10) of this section.

(10) (a) Except for fees that are authorized or prescribed under other provisions of Idaho law, no fee shall be charged for the first two (2) hours of labor in responding to a request for public records, or for copying the first one hundred (100) pages of paper records that are requested.

(b) A public agency or independent public body corporate and politic or public official may establish fees to recover the actual labor and copying costs associated with locating and copying documents if:

(i) The request is for more than one hundred (100) pages of paper records; or

(ii) The request includes records from which nonpublic information must be deleted; or

(iii) The actual labor associated with responding to requests for public records in compliance with the provisions of this chapter exceeds two (2) person hours.

(c) A public agency or independent public body corporate and politic or public official may establish a copying fee schedule. The fee may not exceed the actual cost to the agency of copying the record if another fee is not otherwise provided by law.

(d) For providing a duplicate of a computer tape, computer disc, microfilm or similar or analogous record system containing public record information, a public agency or independent public body corporate and politic or public official may charge a fee, uniform to all persons that does not exceed the sum of the following:

(i) The agency's direct cost of copying the information in that form;

(ii) The standard cost, if any, for selling the same information in the form of a publication;

(iii) The agency's cost of conversion, or the cost of conversion charged by a third party, if the existing electronic record is converted to another electronic form.

(e) Fees shall not exceed reasonable labor costs necessarily incurred in responding to a public records request. Fees, if charged, shall reflect the personnel and quantity of time that are reasonably necessary to process a request. Fees for labor costs shall be charged at the per hour pay rate of the lowest paid administrative staff employee or public official of the public agency or independent public body corporate and politic who is necessary and qualified to process the request. If

a request requires redactions to be made by an attorney who is employed by the public agency or independent public body corporate and politic, the rate charged shall be no more than the per hour rate of the lowest paid attorney within the public agency or independent public body corporate and politic who is necessary and qualified to process the public records request. If a request is submitted to a public agency or independent public body corporate and politic that does not have an attorney on staff, and requires redactions by an attorney, the rate shall be no more than the usual and customary rate of the attorney who is retained by the public agency or independent public body corporate and politic for that purpose.

(f) The public agency or independent public body corporate and politic shall not charge any cost or fee for copies or labor when the requester demonstrates that the requester's examination and/or copying of public records:

(i) Is likely to contribute significantly to the public's understanding of the operations or activities of the government;

(ii) Is not primarily in the individual interest of the requester including, but not limited to, the requester's interest in litigation in which the requester is or may become a party; and

(iii) Will not occur if fees are charged because the requester has insufficient financial resources to pay such fees.

(g) Statements of fees by a public agency or independent public body corporate and politic shall be itemized to show the per page costs for copies, and hourly rates of employees and attorneys involved in responding to the request, and the actual time spent on the public records request. No lump sum costs shall be assigned to any public records request.

(11) A requester may not file multiple requests for public records solely to avoid payment of fees. When a public agency or independent public body corporate and politic reasonably believes that one (1) or more requesters is segregating a request into a series of requests to avoid payment of fees authorized pursuant to this section, the public agency or independent public body corporate and politic may aggregate such requests and charge the appropriate fees. The public agency or independent public body corporate and politic may consider the time period in which the requests have been made in its determination to aggregate the related requests. A public agency or independent public body corporate and politic shall not aggregate multiple requests on unrelated subjects from one (1) requester.

(12) The custodian may require advance payment of fees authorized by this section. Any money received by the public agency or independent public body corporate and politic shall be credited to the account for which the expense being reimbursed was or will be charged, and such funds may be expended by the agency as part of its appropriation from that fund. Any portion of an advance payment in excess of the actual costs of labor and copying incurred by the agency in responding to the request shall be returned to the requester.

(13) A public agency or independent public body corporate and politic shall not prevent the examination or copying of a public record by contracting with a nongovernmental body to perform any of its duties or functions.

(14) Nothing contained herein shall prevent a public agency or independent public body corporate and politic from disclosing statistical information that is descriptive of an identifiable person or persons, unless prohibited by law.

(15) Nothing contained herein shall prevent a public agency or independent public body corporate and politic from providing a copy of a public record in electronic form if the record is available in electronic form and if the person specifically requests an electronic copy.

(16) A public agency, elected official or independent public body corporate and politic shall designate a custodian or custodians for all public records, which includes any public official having custody of, control of, or authorized access to public records and also includes all delegates of such officials, employees or representatives.

SECTION 3. That Section 74-106, Idaho Code, be, and the same is hereby amended to read as follows:

74-106. RECORDS EXEMPT FROM DISCLOSURE -- PERSONNEL RECORDS, PERSONAL INFORMATION, HEALTH RECORDS, PROFESSIONAL DISCIPLINE. The following records are exempt from disclosure:

(1) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, including bonuses, severance packages, other compensation or vouchered and unvouchered expenses for which reimbursement was paid, status, workplace and employing agency. All other personnel information relating to a public employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, social security number, driver's license number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. Names of applicants to classified or merit system positions shall not be disclosed to the public without the applicant's written consent. Disclosure of names as part of a background check is permitted. Names of the five (5) final applicants to all other positions shall be available to the public. If such group is less than five (5) finalists, then the entire list of applicants shall be available to the public. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

(2) Retired employees' and retired public officials' home addresses, home telephone numbers and other financial and nonfinancial membership records; active and inactive member financial and membership records and mortgage portfolio loan documents maintained by the public employee retirement system. Financial statements prepared by retirement system staff, funding agents and custodians concerning the investment of assets of the public employee retirement system of Idaho are not considered confidential under this chapter.

(3) Information and records submitted to the Idaho state lottery for the performance of background investigations of employees, lottery retailers and major procurement contractors; audit records of lottery retailers, vendors and major procurement contractors submitted to or performed by the Idaho state lottery; validation and security tests of the state lottery for lottery games; business records and information submitted pursuant to sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such documents and information obtained and held for the purposes of lottery security and investigative action as determined by lottery rules unless the public interest in disclosure substantially outweighs the private need for protection from public disclosure.

(4) Records of a personal nature as follows:

- (a) Records of personal debt filed with a public agency or independent public body corporate and politic pursuant to law;
- (b) Personal bank records compiled by a public depositor for the purpose of public funds transactions conducted pursuant to law;
- (c) Records of ownership of financial obligations and instruments of a public agency or independent public body corporate and politic, such as

bonds, compiled by the public agency or independent public body corporate and politic pursuant to law;

(d) Records, with regard to the ownership of, or security interests in, registered public obligations;

(e) Vital statistics records; and

(f) Military records as described in and pursuant to section 65-301, Idaho Code.

(5) Information in an income or other tax return measured by items of income or sales, which is gathered by a public agency for the purpose of administering the tax, except such information to the extent disclosed in a written decision of the tax commission pursuant to a taxpayer protest of a deficiency determination by the tax commission, under the provisions of section 63-3045B, Idaho Code.

(6) Records of a personal nature related directly or indirectly to the application for and provision of statutory services rendered to persons applying for public care for people who are elderly, indigent or have mental or physical disabilities, or participation in an environmental or a public health study, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(7) Employment security information, except that a person may agree, through written, informed consent, to waive the exemption so that a third party may obtain information pertaining to the person, unless access to the information by the person is restricted by subsection (3)(a), (3)(b) or (3)(d) of section 74-113, Idaho Code. Notwithstanding the provisions of section 74-113, Idaho Code, a person may not review identifying information concerning an informant who reported to the department of labor a suspected violation by the person of the employment security law, chapter 13, title 72, Idaho Code, under an assurance of confidentiality. As used in this section and in chapter 13, title 72, Idaho Code, "employment security information" means any information descriptive of an identifiable person or persons that is received by, recorded by, prepared by, furnished to or collected by the department of labor or the industrial commission in the administration of the employment security law.

(8) Any personal records, other than names, business addresses and business phone numbers, such as parentage, race, religion, sex, height, weight, tax identification and social security numbers, financial worth or medical condition submitted to any public agency or independent public body corporate and politic pursuant to a statutory requirement for licensing, certification, permit or bonding.

(9) Unless otherwise provided by agency rule, information obtained as part of an inquiry into a person's fitness to be granted or retain a license, certificate, permit, privilege, commission or position, private association peer review committee records authorized in title 54, Idaho Code. Any agency which has records exempt from disclosure under the provisions of this subsection shall annually make available a statistical summary of the number and types of matters considered and their disposition.

(10) The records, findings, determinations and decisions of any prelitigation screening panel formed under chapters 10 and 23, title 6, Idaho Code.

(11) Complaints received by the board of medicine and investigations and informal proceedings, including informal proceedings of any committee of the board of medicine, pursuant to chapter 18, title 54, Idaho Code, and rules adopted thereunder.

(12) Records of the department of health and welfare or a public health district that identify a person infected with a reportable disease.

(13) Records of hospital care, medical records, including prescriptions, drug orders, records or any other prescription information that

specifically identifies an individual patient, prescription records maintained by the board of pharmacy under sections 37-2726 and 37-2730A, Idaho Code, records of psychiatric care or treatment and professional counseling records relating to an individual's condition, diagnosis, care or treatment, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(14) Information collected pursuant to the directory of new hires act, chapter 16, title 72, Idaho Code.

(15) Personal information contained in motor vehicle and driver records that is exempt from disclosure under the provisions of chapter 2, title 49, Idaho Code.

(16) Records of the financial status of prisoners pursuant to subsection (2) of section 20-607, Idaho Code.

(17) Records of the Idaho state police or department of correction received or maintained pursuant to section 19-5514, Idaho Code, relating to DNA databases and databanks.

(18) Records of the department of health and welfare relating to a survey, resurvey or complaint investigation of a licensed nursing facility shall be exempt from disclosure. Such records shall, however, be subject to disclosure as public records as soon as the facility in question has received the report, and no later than the fourteenth day following the date that department of health and welfare representatives officially exit the facility pursuant to federal regulations. Provided however, that for purposes of confidentiality, no record shall be released under this section which specifically identifies any nursing facility resident.

(19) Records and information contained in the registry of immunizations against childhood diseases maintained in the department of health and welfare, including information disseminated to others from the registry by the department of health and welfare.

(20) Records of the Idaho housing and finance association (IHFA) relating to the following:

(a) Records containing personal financial, family, health or similar personal information submitted to or otherwise obtained by the IHFA;

(b) Records submitted to or otherwise obtained by the IHFA with regard to obtaining and servicing mortgage loans and all records relating to the review, approval or rejection by the IHFA of said loans;

(c) Mortgage portfolio loan documents;

(d) Records of a current or former employee other than the employee's duration of employment with the association, position held and location of employment. This exemption from disclosure does not include the contracts of employment or any remuneration, including reimbursement of expenses, of the executive director, executive officers or commissioners of the association. All other personnel information relating to an association employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence, retirement plan information and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. An employee or authorized representative may inspect and copy that employee's personnel records, except for material used to screen and test for employment or material not subject to disclosure elsewhere in the Idaho public records act.

(21) Records of the department of health and welfare related to child support services in cases in which there is reasonable evidence of domestic violence, as defined in chapter 63, title 39, Idaho Code, that can be used

to locate any individuals in the child support case except in response to a court order.

(22) Records of the Idaho state bar lawyer assistance program pursuant to chapter 49, title 54, Idaho Code, unless a participant in the program authorizes the release pursuant to subsection (4) of section 54-4901, Idaho Code.

(23) Records and information contained in the trauma registry created by chapter 20, title 57, Idaho Code, together with any reports, analyses and compilations created from such information and records.

(24) Records contained in the court files, or other records prepared as part of proceedings for judicial authorization of sterilization procedures pursuant to chapter 39, title 39, Idaho Code.

(25) The physical voter registration application on file in the county clerk's office; however, a redacted copy of said application shall be made available consistent with the requirements of this section. Information from the voter registration application maintained in the statewide voter registration database, including age, will be made available except for the voter's driver's license number, date of birth and, upon a showing that the voter comes within the provisions of subsection (30) of this section or upon showing of good cause by the voter to the county clerk in consultation with the county prosecuting attorney, the physical residence address of the voter. For the purposes of this subsection good cause shall include the protection of life and property and protection of victims of domestic violence and similar crimes.

(26) File numbers, passwords and information in the files of the health care directive registry maintained by the secretary of state under section 39-4515, Idaho Code, are confidential and shall not be disclosed to any person other than to the person who executed the health care directive or the revocation thereof and that person's legal representatives, to the person who registered the health care directive or revocation thereof, and to physicians, hospitals, medical personnel, nursing homes, and other persons who have been granted file number and password access to the documents within that specific file.

(27) Records in an address confidentiality program participant's file as provided for in chapter 57, title 19, Idaho Code, other than the address designated by the secretary of state, except under the following circumstances:

(a) If requested by a law enforcement agency, to the law enforcement agency; or

(b) If directed by a court order, to a person identified in the order.

(28) Except as otherwise provided by law relating to the release of information to a governmental entity or law enforcement agency, any personal information including, but not limited to, names, personal and business addresses and phone numbers, sex, height, weight, date of birth, social security and driver's license numbers, or any other identifying numbers and/or information related to any Idaho fish and game licenses, permits and tags unless written consent is obtained from the affected person.

(29) Documents and records related to alternatives to discipline that are maintained by the Idaho board of veterinary medicine under the provisions of section 54-2118(1)(b), Idaho Code, provided the requirements set forth therein are met.

(30) The Idaho residential street address and telephone number of an eligible law enforcement officer and such officer's residing household member(s) as provided for in chapter 58, title 19, Idaho Code, except under the following circumstances:

(a) If directed by a court order, to a person identified in the court order;

(b) If requested by a law enforcement agency, to the law enforcement agency;

(c) If requested by a financial institution or title company for business purposes, to the requesting financial institution or title company; or

(d) If the law enforcement officer provides written permission for disclosure of such information.

(31) All information exchanged between the Idaho transportation department and insurance companies, any database created, all information contained in the verification system and all reports, responses or other information generated for the purposes of the verification system, pursuant to section 49-1234, Idaho Code.

(32) Nothing in this section shall prohibit the release of information to the state controller as the state social security administrator as provided in section 59-1101A, Idaho Code.

(33) Personal information including, but not limited to, property values, personal and business addresses, phone numbers, dates of birth, social security and driver's license numbers or any other identifying numbers or information maintained by the administrator of the unclaimed property law set forth in chapter 5, title 14, Idaho Code. Nothing in this subsection shall prohibit the release of names, last known city of residence, property value ranges and general property information by the administrator for the purpose of reuniting unclaimed property with its owner.

(34) Any personal information collected by the secretary of state, pursuant to section 67-906(1)(b), Idaho Code, for the purpose of allowing individuals to access the statewide electronic filing system authorized in section 67-906, Idaho Code.

SECTION 4. That Section 74-119, Idaho Code, be, and the same is hereby amended to read as follows:

74-119. AGENCY GUIDELINES. By January 1, 201~~6~~⁹, every state agency or independent public body corporate and politic shall adopt guidelines that identify the general subject matter of all public records kept or maintained by the state agency or independent public body corporate and politic, the custodian or custodians, and the physical location of such documents. Public agencies shall designate at least one (1) person as custodian to receive public records requests and shall provide an alternate custodian or alternate custodians for contingencies.

Approved March 19, 2018

CHAPTER 144
(S.B. No. 1296)

AN ACT

RELATING TO PERSONS WITH DISABILITIES; AMENDING SECTION 56-701A, IDAHO CODE, TO REVISE DEFINITIONS; AND AMENDING THE HEADING FOR CHAPTER 7, TITLE 56, IDAHO CODE.

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

SECTION 1. That Section 56-701A, Idaho Code, be, and the same is hereby amended to read as follows:

56-701A. DEFINITIONS. As used in this chapter and chapter 58, title 18, Idaho Code:

(1) "Assistance device" means a cane or walking stick, predominantly white or metallic in color, with or without red tip, or a manual or motor-

ized wheelchair or similar scooter, or other similar devices that enhance the safety or mobility of a disabled person.

(2) "Assistance dog" means a dog that has been trained as a guide dog for a blind or visually impaired person, a hearing dog for a hearing-impaired person, or a service dog for a physically disabled person.

(3) "Disabled person" means a hearing, visually, mentally or physically impaired person.

(4) "Dog-in-training" means a dog being specifically trained to develop social, environmental and other skills needed for admission to a training school or other program for assistance dogs. Dogs-in-training shall wear a jacket, collar, scarf or other similar article identifying it as a dog-in-training.

(5) "Guide dog" means a dog that has been specially trained to aid a particular blind or visually impaired person.

(6) "Hearing dog" means a dog that has been specially trained to aid a particular hearing-impaired person.

(7) "Hearing-impaired person" means a person who has a hearing impairment manifested by a speech discrimination score of forty percent (40%) or more in the better ear with appropriate correction as certified by a licensed otologist, licensed audiologist, or the Idaho division of vocational rehabilitation.

(8) "Physically impaired person" means any person with any substantial physical disability which that prevents normal participation in community or life activities as are available and participated in by persons with no such afflictions or conditions of the same age and sex.

(9) "Service dog" means a dog that has been specially trained to aid a particular physically or mentally disabled person with a ~~physical~~ disability other than sight or hearing impairment.

(10) "Visually impaired person" means any person who is blind, totally blind, partially blind or otherwise visually impaired, meaning such person has central visual acuity not exceeding 20/200 in the better eye, with corrected lenses, as measured by the Snellen test, or visual acuity greater than 20/200, but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle not greater than twenty (20) degrees.

SECTION 2. That the Heading for Chapter 7, Title 56, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 7

RIGHTS OF THE BLIND AND PERSONS WITH PHYSICAL DISABILITIES

Approved March 19, 2018

CHAPTER 145
(S.B. No. 1271)

AN ACT

RELATING TO HEALTH CARE; AMENDING SECTION 39-1392a, IDAHO CODE, TO REVISE A DEFINITION; AND AMENDING SECTION 39-1392e, IDAHO CODE, TO REVISE PROVISIONS REGARDING EXCEPTIONS TO PRIVILEGE AND CONFIDENTIALITY.

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

SECTION 1. That Section 39-1392a, Idaho Code, be, and the same is hereby amended to read as follows:

39-1392a. DEFINITIONS. The following terms shall have the following meanings when used in this section:

(1) "Emergency medical services personnel" means emergency medical services providers certified by the department of health and welfare pursuant to section 56-1011 et seq., Idaho Code, and ambulance-based clinicians as defined in the rules governing emergency medical services as promulgated by the department of health and welfare.

(2) "Group medical practice" means a partnership, corporation, limited liability company, or other association formed for the purpose of offering health care services through physicians and other licensed or otherwise authorized health care providers who are partners, shareholders, members, employees, or contractors of such group medical practice.

(3) "Health care organization" means a hospital, in-hospital medical staff committee, medical society, managed care organization, licensed emergency medical service, group medical practice, residential care facility or skilled nursing facility.

(4) "Hospital" means a facility in Idaho licensed under sections 39-1301 through 39-1314, Idaho Code, and defined in section 39-1301(a) (1), Idaho Code.

(5) "In-hospital medical staff committees" means any individual doctor who is a hospital staff member, or any hospital employee, or any group of such doctors and/or hospital employees, who are duly designated a committee by hospital staff bylaws, by action of an organized hospital staff, or by action of the board of directors of a hospital, and which committee is authorized by said bylaws, staff or board of directors, to conduct research or study of hospital patient cases, or of medical questions or problems using data and information from hospital patient cases.

(6) "Licensed emergency medical service" means an ambulance service or a nontransport service licensed by the department of health and welfare pursuant to section 56-1011 et seq., Idaho Code.

(7) "Managed care organization" means a public or private person or organization which offers a managed care plan.

(8) "Managed care plan" means a contract of coverage given to an individual, family or group of covered individuals pursuant to which a member is entitled to receive a defined set of health care benefits through an organized system of health care providers in exchange for defined consideration and which requires the member to use, or creates financial incentives for the member to use, health care providers owned, managed, employed by or under contract with the managed care organization.

(9) "Medical society" means any duly constituted, authorized and recognized professional society or entity made up of physicians licensed to practice medicine in Idaho, having as its purpose the maintenance of high quality in the standards of health care provided in Idaho or any region or segment of the state, operating with the approval of the Idaho state board

of medicine, or any official committee appointed by the Idaho state board of medicine.

(10) "Patient care records" means written or otherwise recorded, preserved and maintained records of the medical or surgical diagnostic, clinical, or therapeutic care of any patient treated by or under the direction of licensed professional personnel, including emergency medical services personnel, in every health care organization subject to this act, whether as an inpatient or outpatient of the health care organization.

(11) "Peer review" means the collection, interpretation and analysis of data by a health care organization for the purpose of bettering the system of delivery of health care or to improve the provision of health care or to otherwise reduce patient morbidity and mortality and improve the quality of patient care. Peer review activities by a health care organization include, without limitation:

(a) Credentialing, privileging or affiliating of health care providers as members of, or providers for, a health care organization;

(b) Quality assurance and improvement, patient safety investigations and analysis, patient adverse outcome reviews, and root-cause analysis and investigation activities by a health care organization; and

(c) Professional review action, meaning an action or recommendation of a health care organization which is taken or made in the conduct of peer review, that is based on the competence or professional conduct of an individual physician or emergency medical services personnel where such conduct adversely affects or could adversely affect the health or welfare of a patient or the physician's privileges, employment or membership in the health care organization or in the case of emergency medical services personnel, the emergency medical services personnel's scope of practice, employment or membership in the health care organization.

(12) "Peer review records" means all evidence of interviews, reports, statements, minutes, memoranda, notes, investigative graphs and compilations and the contents thereof, and all physical materials relating to peer review of any health care organization. "Peer review records" does not mean or include patient care records; provided however, that the records relating to the identification of which particular patient care records were selected for, or reviewed, examined or discussed in peer review by a health care organization and the methodology used for selecting such records shall be considered peer review records.

(13) "Skilled nursing facility" means a facility licensed under chapter 13, title 39, Idaho Code, to provide skilled care to recipients.

SECTION 2. That Section 39-1392e, Idaho Code, be, and the same is hereby amended to read as follows:

39-1392e. LIMITED EXCEPTIONS TO PRIVILEGE AND CONFIDENTIALITY. (a) In the event of a claim or civil action against a physician, emergency medical services personnel, a hospital, a residential care facility or a skilled nursing facility arising out of a particular physician-patient, emergency medical services personnel-patient, hospital-patient relationship, residential care facility-patient or skilled nursing facility-patient relationship, or which concerns the sufficiency of the delivery of particular health care to a specific patient, any health care organization having information of the kind covered by section 39-1392b, Idaho Code, shall, when interrogated as hereinafter provided, advise any such claimant who is or was such a patient or who, in a representative capacity, acts on behalf of such patient or his heirs, as follows:

(1) Whether it has conducted or has in progress an inquiry, proceeding or disciplinary matter regarding the quality or propriety of the health care involved, which concerns the subject patient while he was under the

care or responsibility of a member of such health care organization or while he was a patient in such hospital or facility; and, if so,

(2) Whether disposition of any kind resulted or will result therefrom; and, if so,

(3) What the disposition was, or, if not yet determined, approximately when it will be determined.

Such disclosure of information shall be limited to the health care organization's actions in connection with the physician, emergency medical services personnel, hospital or skilled nursing facility against whom such claim is asserted.

(b) Such a claimant shall likewise be entitled to inquire of such health care organization respecting the names and addresses of persons who such health care organization knows to have direct knowledge of the provision of the health care in question, such inquiry to be limited, however, to the particular patient and the particular times and occasions germane to the specific occurrences on which the claim is based; provided, names shall not be disclosed respecting persons who have gained secondary knowledge or formed opinions respecting the matter solely by participating as witnesses, officials, investigators or otherwise on, for, or in connection with such a health care organization committee, staff, governing board or the state board of medicine.

(c) Such limited, conditional discovery and disclosure of information as provided above shall be allowed only in response to inquiries directed to such a health care organization, and then only if initially propounded by a claimant of the type above described. If the matter is in litigation, inquiry may be by customary means of discovery under the Idaho rules of civil procedure, or, if pending in a United States court, then under discovery as allowed by its applicable rules; provided, pendency of the claim in the United States court or before any other tribunal shall not operate to broaden the exception to the rules of privilege, confidentiality and immunity set down in this act.

(d) Such disclosures may be voluntarily made without judicial order or formal discovery if all disciplined, accused or investigated physicians or emergency medical services personnel consent thereto, and if privileged or confidential information regarding any other patient, physician, emergency medical services personnel, or person will not be disclosed thereby. When the terms of this paragraph are complied with, such voluntary disclosures may be made without civil liability therefor as if in due response to valid judicial process or order.

(e) If any claimant makes such inquiry of any such health care organization, he shall be deemed to have consented to like inquiry and disclosure rights for the benefit of all parties against whom he asserts such claim or brings such suit or action, and all other persons who are parties to such action, and thereafter all such persons and parties may invoke the provisions of this section, seeking and securing specific information as herein provided for the benefit of such claimant, to the same extent as the same is allowed to such claimant.

(f) If any physician, emergency medical services personnel, patient, person, organization or entity whose conduct, care, chart, behavior, health or standards of ethics or professional practice is the subject of investigation, comment, testimony, dispositive order of any kind or other written or verbal utterance or publication or act of any such health care organization or any member or committee thereof in the course of research, study, disciplinary proceeding or investigation of the sort contemplated by this act, makes claim or brings suit on account of such health care organization activity, then, in the defense thereof, confidentiality and privilege shall be deemed waived by the making of such claim, and such health care organization and the members of their staffs and committees shall be allowed to use and resort to such otherwise protected information for the purpose of presenting

proof of the facts surrounding such matter, and this provision shall apply whether such claim be for equitable or legal relief or for intentional or unintentional tort of any kind and whether pressed by a patient, physician, emergency medical services personnel, or any other person, but such waiver shall only be effective in connection with the disposition or litigation of such claim, and the court shall, in its discretion, enter appropriate orders protecting, and as fully as it reasonably can do so, preserving the confidentiality of such materials and information.

Approved March 19, 2018

CHAPTER 146
(S.B. No. 1305)

AN ACT

RELATING TO STOCKWATER; AMENDING SECTION 42-113, IDAHO CODE, TO PROVIDE THAT FOR RIGHTS TO THE USE OF WATER FOR IN-STREAM OR OUT-OF-STREAM LIVESTOCK PURPOSES ASSOCIATED WITH GRAZING ON FEDERALLY OWNED OR MANAGED LAND ESTABLISHED UNDER THE DIVERSION AND APPLICATION TO BENEFICIAL USE METHOD OF APPROPRIATION, THE WATER RIGHT SHALL BE AN APPURTENANCE TO THE BASE PROPERTY, TO PROVIDE THAT WHEN A FEDERAL GRAZING PERMIT IS TRANSFERRED OR CONVEYED TO A NEW OWNER THE ASSOCIATED STOCKWATER RIGHTS MAY ALSO BE CONVEYED UNDER CERTAIN CONDITIONS AND BECOME APPURTENANT TO THE NEW OWNER'S BASE PROPERTY AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 42-113, Idaho Code, be, and the same is hereby amended to read as follows:

42-113. IN-STREAM AND OTHER WATER USE FOR LIVESTOCK. (1) A permit may be issued, but shall not be required for appropriation of water for the in-stream watering of livestock. In the consideration of applications for permits to appropriate water for other purposes, the director of the department of water resources shall impose such reasonable conditions as are necessary to protect prior downstream water rights for in-stream livestock use, and in the administration of the water rights on any stream, the director, and the district court where applicable, shall recognize and protect water rights for in-stream livestock use, according to priority, as they do water rights for other purposes. As used in this section, the phrase "in-stream watering of livestock" means the drinking of water by livestock directly from a natural stream, without the use of any constructed physical diversion works.

(2) For rights to the use of water for in-stream or out-of-stream livestock purposes, associated with grazing on federally owned or managed land, established under the diversion and application to beneficial use method of appropriation:

(a) The priority date shall be the first date that water historically was used for livestock watering associated with grazing on the land, subject to the provisions of section 42-222(2), Idaho Code; and

(b) The water right shall be an appurtenance to the base property. When a federal grazing permit is transferred or otherwise conveyed to a new owner, the associated stockwater rights may also be conveyed and, upon approval of an application for transfer, shall become appurtenant to the new owner's base property.

(3) This subsection is established to promote the watering of livestock away from streams and riparian areas, but not to require fencing of livestock away from streams and riparian areas.

(a) Any person having an established water right or appropriating water for in-stream watering of livestock pursuant to subsection (1) of this section may, in addition to the in-stream use, divert the water for livestock use away from the stream or riparian area. The diversion may occur only if the following conditions are met:

(i) The water is diverted from a surface water source to a trough or tank through an enclosed water delivery system;

(ii) The water delivery system is equipped with an automatic shut-off or flow control mechanism or includes a means for returning unused water to the surface water source through an enclosed delivery system, and the system is designed and constructed to allow the rate of diversion to be measured;

(iii) The diversion is from a surface water source to which the livestock would otherwise have access and the watering tank or trough is located on land from which the livestock would have access to the surface water source from which the diversion is made;

(iv) The diversion of water out of the stream in this manner does not injure other water rights;

(v) The use of the water diverted is for watering livestock; and

(vi) The bed and banks of the source shall not be altered as that term is defined in section 42-3802, Idaho Code, except that an inlet conduit may be placed into the source in a manner that does not require excavation or obstruction of the stream channel, unless additional work is approved by the director of the department of water resources.

(b) The amount of water diverted for watering of livestock in accordance with this subsection shall not exceed thirteen thousand (13,000) gallons per day per diversion.

(c) Before construction and use of a water diversion and delivery system as provided in this subsection, the person or other entity proposing to construct and use the system shall give notice to the director of the department of water resources. Separate notice for each diversion shall be provided on a form approved by the director and shall be accompanied by a twenty-five dollar (\$25.00) fee for each notice filed. Filing of the notice as herein provided shall serve as a substitute for filing a notice of claim to a water right pursuant to section 42-243, Idaho Code. The director may provide notice to holders of water rights and others as the director deems appropriate.

(d) Compliance with the provisions of this subsection is a substitute for the requirements for transfer proceedings in section 42-222, Idaho Code. In the administration of water diverted for livestock watering pursuant to this subsection, the director, and the district court where applicable, shall recognize and protect water rights for out-of-stream livestock watering use pursuant to this subsection as they would in-stream livestock watering use. The priority date for out-of-stream watering of livestock pursuant to this subsection shall be the first date that water historically was used for livestock watering and shall not be altered due to the diversion out-of-stream.

(e) Any water right holder who determines that diversion or use of water under the provisions of this subsection is depriving the water right holder of water to which the water right holder is entitled may petition the director of the department of water resources to curtail the diversion or use of water for livestock purposes. Upon such petition, the director shall cause an investigation to be made and may hold hearings or gather information in other ways. If the director finds that an interference is occurring, the director may order curtailment of diversion or use of the water or may require the water diversion and delivery system to be modified to prevent injury to other water rights. Any person

feeling aggrieved by an order of the director in response to a petition filed as herein provided shall be entitled to review as provided in section 42-1701A, Idaho Code.

(4) No change in use of any water right used for watering of livestock, whether proposed under this section or section 42-222, Idaho Code, shall be made or allowed without the consent of the permittee in the federal grazing allotment, if any, in which the water right is used for the watering of livestock.

Approved March 19, 2018

CHAPTER 147
(S.B. No. 1275)

AN ACT

RELATING TO WOLVES; AMENDING SECTION 36-201, IDAHO CODE, TO PROVIDE THAT IT IS THE EXPECTATION OF THE LEGISLATURE THAT WOLF COLLARING WILL BE CONTINUED AS A MANAGEMENT TOOL FOR CERTAIN PACKS.

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

SECTION 1. That Section 36-201, Idaho Code, be, and the same is hereby amended to read as follows:

36-201. FISH AND GAME COMMISSION AUTHORIZED TO CLASSIFY WILDLIFE. With the exception of predatory animals, the Idaho fish and game commission is hereby authorized to define by classification or reclassification all wildlife in the state of Idaho. Such definitions and classifications shall include:

- (a) Game animals
- (b) Game birds
- (c) Game fish
- (d) Fur-bearing animals
- (e) Migratory birds
- (f) Threatened or endangered wildlife
- (g) Protected nongame species
- (h) Unprotected wildlife

Predatory wildlife shall include:

- 1. Coyote
- 2. Jackrabbit
- 3. Skunk
- 4. Weasel
- 5. Starling
- 6. Raccoon

Notwithstanding the classification assigned to wolves, all methods of take including, but not limited to, all methods utilized by the United States fish and wildlife service and the United States department of agriculture wildlife services, shall be authorized for the management of wolves in accordance with existing laws or approved management plans. It is the expectation of the legislature that wolf collaring will be continued as one of the proactive management tools for packs that are predisposed to depredation on domestic livestock.

Approved March 19, 2018

CHAPTER 148
(S.B. No. 1335)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF FINANCE FOR FISCAL YEAR 2019; APPROPRIATING MONEYS TO THE DEPARTMENT OF FINANCE FOR FISCAL YEAR 2019; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING LEGISLATIVE INTENT FOR THE CONTINUOUS APPROPRIATION OF DAMAGES AWARDED FROM THE MORTGAGE RECOVERY FUND.

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

SECTION 1. There is hereby appropriated to the Department of Finance the following amounts to be expended for the designated expense classes from the listed funds for the period July 1, 2018, through June 30, 2019:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
State Regulatory				
Fund	\$6,711,000	\$1,771,700	\$65,400	\$8,548,100
Mortgage Recovery				
Fund		50,000		50,000
Securities Investor Training				
Fund	<u>50,000</u>	<u>0</u>	<u>0</u>	<u>50,000</u>
TOTAL	\$6,761,000	\$1,821,700	\$65,400	\$8,648,100

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Finance is authorized no more than sixty-seven (67.00) full-time equivalent positions at any point during the period July 1, 2018, through June 30, 2019, 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 an Idaho court awards actual damages resulting from acts constituting violations of the Idaho Residential Mortgage Practices Act by a mortgage broker, mortgage lender or mortgage loan originator who was licensed or required to be licensed, per Section 26-31-109, Idaho Code.

Approved March 19, 2018

CHAPTER 149
(S.B. No. 1334)

AN ACT

RELATING TO THE APPROPRIATION TO THE IDAHO COMMISSION FOR LIBRARIES FOR FISCAL YEAR 2019; APPROPRIATING MONEYS TO THE IDAHO COMMISSION FOR LIBRARIES FOR FISCAL YEAR 2019; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING LEGISLATIVE INTENT FOR THE PAYMENT OF TALKING BOOK SERVICE COSTS.

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

SECTION 1. There is hereby appropriated to the Idaho Commission for Libraries the following amounts to be expended for the designated expense classes from the listed funds for the period July 1, 2018, through June 30, 2019:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$2,153,100	\$1,659,900		\$380,000	\$4,193,000
Miscellaneous Revenue					
Fund		55,000	\$5,000	10,000	70,000
Federal Grant					
Fund	<u>636,200</u>	<u>916,500</u>	<u>25,000</u>	<u>60,000</u>	<u>1,637,700</u>
TOTAL	\$2,789,300	\$2,631,400	\$30,000	\$450,000	\$5,900,700

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Idaho Commission for Libraries is authorized no more than thirty-seven and one-half (37.50) full-time equivalent positions at any point during the period July 1, 2018, through June 30, 2019, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. TALKING BOOK SERVICE COSTS. Of the amount appropriated in Section 1 of this act, \$200,000 from the General Fund, or so much therefor as is necessary, shall be used solely to pay personnel costs and operating expenditures of the Talking Book Service in the event that the Library Services and Technology Act grant funding is eliminated. Any remaining unexpended and unencumbered amounts not so used shall revert to the General Fund.

Approved March 19, 2018

CHAPTER 150
(S.B. No. 1333)

AN ACT

RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF INSURANCE FOR FISCAL YEAR 2019; APPROPRIATING MONEYS TO THE DEPARTMENT OF INSURANCE FOR FISCAL YEAR 2019; 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, 2018, through June 30, 2019:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. INSURANCE REGULATION:				
FROM:				
Insurance Administrative				
Fund	\$4,957,200	\$2,898,400	\$450,700	\$8,306,300
Federal Grant				
Fund	<u>280,100</u>	<u>398,100</u>	<u>0</u>	<u>678,200</u>
TOTAL	\$5,237,300	\$3,296,500	\$450,700	\$8,984,500
II. STATE FIRE MARSHAL:				
FROM:				
Arson, Fire and Fraud Prevention				
Fund	\$804,000	\$336,300	\$84,600	\$1,224,900
GRAND TOTAL	\$6,041,300	\$3,632,800	\$535,300	\$10,209,400

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Department of Insurance is authorized no more than seventy-six and five-tenths (76.50) full-time equivalent positions at any point during the period July 1, 2018, through June 30, 2019, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 19, 2018

CHAPTER 151
(H.B. No. 591)

AN ACT

RELATING TO TAX EXEMPTIONS FOR NEW CAPITAL INVESTMENTS; AMENDING SECTION 63-4502, IDAHO CODE, TO REVISE DEFINITIONS OF "QUALIFYING NEW INVESTMENT," "QUALIFYING PERIOD" AND "PROJECT SITE," TO PROVIDE APPLICATION TO OPERATING PROPERTY AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 63-4502, Idaho Code, be, and the same is hereby amended to read as follows:

63-4502. TAX EXEMPTION FOR NEW CAPITAL INVESTMENTS. (1) For calendar years beginning on or after January 1, 2008, the net taxable value of all property of a taxpayer, whether acquired before, during or after the qualifying period, in excess of four hundred million dollars (\$400,000,000) located within a single county in Idaho shall be exempt from property taxation and any special assessment, but only if the taxpayer makes a qualifying new capital investment as defined in subsection (2) of this section.

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

(a) "Qualifying new capital investment" means an investment of at least one billion dollars (\$1,000,000,000) made during the qualifying period by the acquisition, construction, improvement or installation of real, operating or personal property related to new plant and building facilities at a project site located within the county referred to in subsection (1) of this section.

(b) "New plant and building facilities" means:

(i) Qualified investments as defined in section 63-3029B, Idaho Code; or

(ii) Buildings or structural components of buildings, including equipment, materials and fixtures thereof, whether used at a project site or temporarily stored off-site in the county referred to in subsection (1) of this section and intended for use at a project site.

(c) "Qualifying period" means an eighty-four (84) month period of time beginning at with the first inspection of the issuance of a building permit for a permanent building structure at a project site following issuance of the building permit, but in no case earlier than January 1, 2008, and ending no later than eighty-four (84) full months after such inspection takes place thereafter.

(d) "Project site" means an area or areas at which the new plant and building facilities described in subsection (2) (b) of this section are built, installed or constructed.

(3) The property included in the calculation for purposes of determining a qualifying new capital investment value shall include all real or operating property owned, and all personal property owned, leased or rented. With respect to leased or rented personal property, only that portion of the property for which a taxpayer is contractually liable for payment of property taxes thereon, shall be included in the calculation of the investment.

(4) Notwithstanding the exemption provided in subsection (4) of section 63-3029B, Idaho Code, no other exemption from property tax or any special assessment provided by the statutes of this state shall be applicable to any property described in subsection (2) of this section with respect to a year in which the incentives set forth in subsection (1) of this section apply to any of the same property.

(5) Property subject to the provisions of this section shall not be included on any property roll or any new construction roll prepared by the county assessor in accordance with section 63-301 or 63-301A, Idaho Code, respectively.

(6) The state tax commission shall adopt all rules that may be necessary to implement the provisions of this section.

Law without signature.

CHAPTER 152
(H.B. No. 592)

AN ACT

RELATING TO THE SALES AND USE TAX; AMENDING SECTION 63-3622BB, IDAHO CODE, TO PROVIDE A CORRECT NAME FOR THE IDAHO NATIONAL LABORATORY, TO REVISE THE SALES AND USE TAX EXEMPTION FOR FACILITIES USED BY THE UNITED STATES OR ONE OF ITS MANAGEMENT AND OPERATING CONTRACTORS FOR RESEARCH AND DEVELOPMENT ACTIVITIES AT THE IDAHO NATIONAL LABORATORY AND TO PROVIDE FOR RULES BY THE STATE TAX COMMISSION.

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

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

63-3622BB. RESEARCH AND DEVELOPMENT AT THE ~~INEEL~~ IDAHO NATIONAL LABORATORY. There is exempted from the taxes imposed by this chapter,

(1) ~~the~~ sale or use of that property primarily or directly used or consumed in connection with research, development, experimental and testing activities, when exclusively financed by the United States in connection with the Idaho national engineering and environmental laboratory and any successor thereto.

(2) If a facility is used by the United States or one (1) of its management and operating contractors for research and development activities at the Idaho national laboratory and also is used by a person or persons in addition to the United States or one (1) of its management and operating contractors, there is exempted from the taxes imposed by this chapter a percentage of each sale or use of tangible personal property used or consumed at or for the benefit of the facility in the amount that the research and development activities of the United States or its management and operating contractors bear to the total use of the facility by all persons. The state tax commission shall adopt rules to govern the procedures for the calculation, verification and documentation of this allocation.

Law without signature.

CHAPTER 153
(S.B. No. 1207, As Amended)

AN ACT

RELATING TO THE SEED INDEMNITY FUND LAW; AMENDING SECTION 22-5117, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE IDAHO STATE DEPARTMENT OF AGRICULTURE MAY DENY THE ISSUANCE OF A LICENSE OR RENEWAL BASED ON SPECIFIED CRITERIA AND AFTER A PUBLIC HEARING AND TO PROVIDE FOR JUDICIAL REVIEW OF FINAL DETERMINATIONS.

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

SECTION 1. That Section 22-5117, Idaho Code, be, and the same is hereby amended to read as follows:

22-5117. LICENSE DENIAL. (1) Any seed buyer against whose bond a claim has been ordered collected or has actually been collected shall not be licensed by the department for a period of three (3) years from the date of such order or collection. License denial may be waived if the person can show, to the satisfaction of the director, that full settlement of all claims against the bond have been made. Full settlement does not include seed indemnity fund settlements. A change in a person's business name shall not absolve any unsettled claim against that person's prior bond.

(2) The director may deny the issuance or renewal of a license to an applicant after a public hearing and based on the following criteria:

(a) The applicant failed or refused to make prior claimants whole due to a previous failure;

(b) The applicant misrepresented material facts in the application for a license;

(c) The industry required to pay into the seed indemnity fund presents relevant objections; or

(d) Any material fact provided by a seed producer that demonstrates license denial would serve the best interest of the public.

(3) Any person adversely affected by the director's final determination may secure judicial review as prescribed under the provisions of chapter 52, title 67, Idaho Code.

Approved March 20, 2018

CHAPTER 154
(S.B. No. 1228)

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-303, IDAHO CODE, TO REVISE THE MINIMUM AGE FOR A STUDENT TO BE APPOINTED TO AN ELECTION BOARD AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 34-303, Idaho Code, be, and the same is hereby amended to read as follows:

34-303. APPOINTMENT OF ELECTION JUDGES BY COUNTY CLERK. (1) The county clerk shall appoint two (2) or more election judges, one (1) of whom shall be designated chief judge, and the number of clerks deemed necessary by him for each polling place. In the event a single polling place is designated for two (2) or more precincts, an individual may serve simultaneously on

the election board for two (2) or more precincts thus served by a single polling place. The precinct committeemen shall recommend persons for the position in their respective precincts to the county clerk in writing at least ten (10) days prior to the date on which any appointment shall be made and the county clerk shall appoint the judges from such lists if the persons recommended are qualified.

(2) The chief election judge shall be responsible for the conduct of the proceedings in the polling place. Compensation for all election personnel shall be determined by the board of county commissioners, and not less than the minimum wage as prescribed by the laws of the state of Idaho.

(3) Each election board shall contain personnel representing all existing political parties if a list of applicants has been provided to the county clerk by the precinct committeemen of the precincts at least sixty (60) days prior to the primary election.

(4) In order to provide for a greater awareness of the election process, the rights and responsibilities of voters and the importance of participating in the electoral process, as well as to provide additional members of precinct boards, a county clerk may appoint not more than two (2) students per precinct to serve under the direct supervision of election board members designated by the county clerk. A student may be appointed, notwithstanding lack of eligibility to vote, if the student possesses the following qualifications:

(1a) Is at least ~~seventeen~~ sixteen (176) years of age at the time of the election for which he or she is serving as a member of an election board; and

(2b) Is a citizen of the United States.

Approved March 20, 2018

CHAPTER 155
(S.B. No. 1229)

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-1013, IDAHO CODE, TO PROVIDE FOR THE SUBMISSION AND APPROVAL OF AN EARLY VOTING PLAN BY THE SECRETARY OF STATE, TO REQUIRE APPROVAL OF PLAN MODIFICATIONS, TO REQUIRE NOTIFICATION OF THE INTENT TO USE AN EARLY VOTING PROCESS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 34-1013, Idaho Code, be, and the same is hereby amended to read as follows:

34-1013. EARLY VOTING BALLOT SECURITY. (1) A detailed plan for the security of ballots for early voting shall be submitted to the secretary of state for approval no later than ~~thirty (30) days before early voting begins~~ the third Friday of January or at least thirty (30) days prior to implementing an early voting plan. Once an early voting plan has been approved by the secretary of state, the plan shall be approved for the entire election year, unless it is modified. Any modified plan shall be submitted to the secretary of state for approval. Once a plan is approved, the county clerk shall notify the secretary of state of the county's intent to use the early voting process prior to each election and before early voting begins.

(2) At a minimum, the following procedures must be followed:

(1a) The ballot boxes used for casting early ballots shall remain locked and secured with a numbered seal until the time of tabulation on election day;

- (2b) A record shall be maintained consisting of the number of ballots issued by date and seal number of each ballot box used for early voting-;
- (3c) Arrangements shall be made to have a deputy sheriff, police officer or bonded private security firm secure the location-; and
- (4d) The actual counting of ballots shall not begin until election day, and the results shall not be released to the public until all voting places in the state have closed.

Approved March 20, 2018

CHAPTER 156
(S.B. No. 1235)

AN ACT

RELATING TO NURSES; AMENDING SECTION 54-1403, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE BOARD OF NURSING.

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

SECTION 1. That Section 54-1403, Idaho Code, be, and the same is hereby amended to read as follows:

54-1403. BOARD OF NURSING. (1) Appointment, Removal and Term of Office. There is hereby created within the department of self-governing agencies the board of nursing for the state of Idaho composed of nine (9) members appointed by the governor. Membership of the board shall consist of the following:

- (a) Five (5) persons licensed to practice registered nursing in Idaho, of whom ~~three (3) shall be educated at the associate degree level provided that one (1) of these may be a diploma nurse, and two (2) of whom shall be educated at the baccalaureate, master's or doctoral level;~~
- (b) Two (2) persons licensed to practice practical nursing in Idaho;
- (c) One (1) person licensed as an advanced practice registered nurse 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. ~~Persons may be reappointed to the board as long as they meet the qualifications of the position to which they were originally appointed. In the event that a member has attained an additional degree of education, that member may not be reappointed to represent the board position designated for another specific degree of education.~~ Members of the board shall hold office until expiration of the term to which the member was appointed and until his successor has been duly appointed and qualified. Upon expiration of any term or creation of any vacancy, the board shall notify the governor thereof, who then shall make such appointment or fill such vacancy within sixty (60) days. Appointments shall be for terms of four (4) years except appointments to vacancies which shall be for the unexpired term being filled. No member shall be appointed for more than three (3) consecutive terms. 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 ~~the~~ 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 associ-

ation 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.

Approved March 20, 2018

CHAPTER 157
(S.B. No. 1240)

AN ACT

RELATING TO THE JUVENILE CORRECTIONS ACT; AMENDING SECTION 20-533, IDAHO CODE, TO PROVIDE THAT NOTICE SHALL BE GIVEN TO CERTAIN PARTIES UPON ACTUAL RELEASE OF A JUVENILE OFFENDER.

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

SECTION 1. That Section 20-533, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

Approved March 20, 2018

CHAPTER 158
(S.B. No. 1242)

AN ACT

RELATING TO JUVENILE CORRECTIONS; AMENDING SECTION 20-532A, IDAHO CODE, TO PROVIDE A REFERENCE TO DESCRIBE AN ESCAPED JUVENILE OFFENDER AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 20-532A, Idaho Code, be, and the same is hereby amended to read as follows:

20-532A. ORDER FOR APPREHENSION AND DETENTION OF ESCAPEES FROM CUSTODY. Upon a finding by the Idaho department of juvenile corrections that a juvenile offender in the custody of the department has escaped ~~from custody~~, as described in section 18-2505(2) or 18-2506(2), Idaho Code, a written order signed by the director or his designee shall be a sufficient order for detention for any law enforcement officer to apprehend and take into custody such person. It is hereby made the duty of all sheriffs, police, constables, parole officers, prison officials and other peace officers, to execute such order. From and after the issuance of the detention order and until taken into custody, the escapee shall be considered a fugitive from justice. Upon apprehension, the juvenile offender shall be detained in the closest available detention center and shall thereafter be transported by the department as soon as possible or, at the discretion of the detaining authority, the juvenile offender may be transported directly by that authority to the department's nearest regional facility.

Approved March 20, 2018

CHAPTER 159
(S.B. No. 1243)

AN ACT

RELATING TO ABORTION; AMENDING SECTION 18-609, IDAHO CODE, TO REQUIRE CERTAIN INFORMATION ABOUT THE RIGHT TO OBSERVE HEARTBEAT MONITORING OF THE UNBORN CHILD AND ABOUT WHERE FURTHER INFORMATION CAN BE OBTAINED CONCERNING CHEMICAL ABORTIONS, INCLUDING ANY INTERVENTIONS THAT MAY AFFECT THEIR EFFECTIVENESS OR RESULT IN ABORTION REVERSALS, TO BE POSTED ON THE WEBSITE OF THE DEPARTMENT OF HEALTH AND WELFARE, TO REQUIRE PHYSICIANS OR THEIR AGENTS TO INFORM PATIENTS ABOUT THE AVAILABILITY OF ULTRASOUND TO OBSERVE THE UNBORN CHILD'S HEARTBEAT MONITORING; AND PROVIDING SEVERABILITY.

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

SECTION 1. That Section 18-609, Idaho Code, be, and the same is hereby amended to read as follows:

18-609. PHYSICIANS AND HOSPITALS NOT TO INCUR CIVIL LIABILITY -- CONSENT TO ABORTION -- NOTICE. (1) Any physician may perform an abortion not prohibited by this act and any hospital or other facility described in section 18-608, Idaho Code, may provide facilities for such procedures without, in the absence of negligence, incurring civil liability therefor to any person including, but not limited to, the pregnant patient and the prospective

father of the fetus to have been born in the absence of abortion, if informed consent for such abortion has been duly given by the pregnant patient.

(2) In order to provide assistance in assuring that the consent to an abortion is truly informed consent, the director of the department of health and welfare shall publish easily comprehended, nonmisleading and medically accurate printed material to be made available at no expense to physicians, hospitals or other facilities providing abortion and abortion-related services, and which shall contain the following:

(a) Descriptions of the services available to assist a woman through a pregnancy, at childbirth and while the child is dependent, including adoption services, a comprehensive list of the names, addresses, and telephone numbers of public and private agencies that provide such services and financial aid available;

(b) Descriptions of the physical characteristics of a normal fetus, described at two (2) week intervals, beginning with the fourth week and ending with the twenty-fourth week of development, accompanied by scientifically verified photographs of a fetus during such stages of development. The description shall include information about physiological and anatomical characteristics;

(c) Descriptions of the abortion procedures used in current medical practices at the various stages of growth of the fetus and any reasonable foreseeable complications and risks to the mother, including those related to subsequent childbearing;

(d) A list, compiled by the department of health and welfare, of health care providers, facilities and clinics that offer to perform ultrasounds free of charge and that have contacted the department annually with a request to be included in the list. The list shall be arranged geographically and shall include the name, address, hours of operation, telephone number and e-mail address of each entity; and

(e) A statement that the patient has a right to view an ultrasound image and to ~~hear the heart tone~~ observe the heartbeat monitoring of her unborn child and that she may obtain an ultrasound free of charge. The statement shall indicate that printed materials required by the provisions of this section contain a list, compiled by the department of health and welfare, of health care providers, facilities and clinics that offer to perform such ultrasounds free of charge; and

(f) Information directing the patient where to obtain further information and assistance in locating a health care provider whom she can consult about chemical abortion, including the interventions, if any, that may affect the effectiveness or reversal of a chemical abortion, and informs the patient that if she wants to consult with such health care providers, she should contact those health care providers before she takes the abortifacient.

(3) (a) The department of health and welfare shall develop and maintain a stable internet website, that may be part of an existing website, to provide the information described in subsection (2) of this section. No information regarding persons using the website shall be collected or maintained. The department of health and welfare shall monitor the website on a weekly basis to prevent and correct tampering.

(b) As used in this section, "stable internet website" means a website that, to the extent reasonably practicable, is safeguarded from having its content altered other than by the department of health and welfare.

(c) When a pregnant patient contacts a physician by telephone or visit and inquires about obtaining an abortion, the physician or the physician's agent before or while scheduling an abortion-related appointment must provide the woman with the address of the state-sponsored internet website on which the printed materials described in subsection (2) of this section may be viewed as required in subsection (2) of this section.

(4) Except in the case of a medical emergency, no abortion shall be performed unless, prior to the abortion, the attending physician or the attending physician's agent certifies in writing that the materials provided by the director have been provided to the pregnant patient at least twenty-four (24) hours before the performance of the abortion. If the materials are not available from the director of the department of health and welfare, no certification shall be required. The attending physician, or the attending physician's agent, shall provide any other information required under this act.

(5) Except in the case of medical emergency, no abortion shall be performed unless, prior to an initial consultation or any testing, and not less than twenty-four (24) hours prior to the performance of the abortion, the woman is informed by telephone or in person, by the physician who is to perform the abortion or by an agent of the physician, that ultrasound imaging and ~~heart-tone~~ heartbeat monitoring are available to the woman enabling the pregnant woman to view her unborn child or ~~listen to~~ observe the heartbeat of the unborn child. The physician or agent of the physician shall inform the pregnant woman that the website and printed materials described in subsection (2) (d), and (e) and (f) of this section contain telephone numbers, addresses and e-mail addresses of facilities that offer such services at no cost. If the woman contacts the abortion facility by e-mail, the physician or agent of the physician shall inform the woman of the requirements of this subsection by e-mail with the required information in a larger font than the rest of the e-mail. No fee for an abortion shall be collected prior to providing the information required in this subsection.

(6) All physicians or their agents who use ultrasound equipment in the performance of an abortion shall inform the patient that she has the right to view the ultrasound image of her unborn child before an abortion is performed. If the patient requests to view the ultrasound image, she shall be allowed to view it before an abortion is performed. The physician or agent shall also offer to provide the patient with a physical picture of the ultrasound image of her unborn child prior to the performance of the abortion, and shall provide it if requested by the patient. In addition to providing the material, the attending physician may provide the pregnant patient with such other information which in the attending physician's judgment is relevant to the pregnant patient's decision as to whether to have the abortion or carry the pregnancy to term.

(7) Within thirty (30) days after performing any abortion without certification and delivery of the materials, the attending physician, or the attending physician's agent, shall cause to be delivered to the director of the department of health and welfare, a report signed by the attending physician, preserving the patient's anonymity, denoting the medical emergency that excused compliance with the duty to deliver the materials. The director of the department of health and welfare shall compile the information annually and report to the public the total number of abortions performed in the state where delivery of the materials was excused; provided that any information so reported shall not identify any physician or patient in any manner which would reveal their identities.

(8) If section 18-608(3), Idaho Code, applies to the abortion to be performed and the pregnant patient is an adult and for any reason unable to give a valid consent thereto, the requirement for that pregnant patient's consent shall be met as required by law for other medical or surgical procedures and shall be determined in consideration of the desires, interests and welfare of the pregnant patient.

(9) The knowing failure of the attending physician to perform any one (1) or more of the acts required under subsection (7) of this section or section 39-261, Idaho Code, is grounds for discipline pursuant to section 54-1814(6), Idaho Code, and shall subject the physician to assessment of a civil penalty of one hundred dollars (\$100) for each month or portion thereof

that each such failure continues, payable to the vital statistics unit of the department of health and welfare, but such failure shall not constitute a criminal act.

SECTION 2. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

Approved March 20, 2018

CHAPTER 160
(S.B. No. 1253)

AN ACT

RELATING TO INCOME TAX CREDITS; REPEALING SECTION 63-3029J, IDAHO CODE, RELATING TO AN INCENTIVE INCOME TAX INVESTMENT CREDIT.

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

SECTION 1. That Section 63-3029J, Idaho Code, be, and the same is hereby repealed.

Approved March 20, 2018

CHAPTER 161
(S.B. No. 1257)

AN ACT

RELATING TO PUBLIC DEFENSE; AMENDING SECTION 19-849, IDAHO CODE, TO REVISE THE MEMBERSHIP OF THE STATE PUBLIC DEFENSE COMMISSION.

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

SECTION 1. That Section 19-849, Idaho Code, be, and the same is hereby amended to read as follows:

19-849. STATE PUBLIC DEFENSE COMMISSION. (1) There is hereby created in the department of self-governing agencies the state public defense commission. The commission shall consist of ~~seven~~ nine (79) members as follows:

(a) Two (2) representatives from the state legislature that shall include one (1) member from the senate and one (1) member from the house of representatives;

(b) One (1) representative appointed by the chief justice of the Idaho supreme court; and

(c) ~~Four~~ Six (46) representatives appointed by the governor and confirmed by the senate as follows:

(i) ~~One~~ Two (~~1~~2) representatives from the Idaho association of counties;

(ii) ~~One~~ Two (~~1~~2) representatives who has have experience as a defending attorney;

(iii) One (1) representative from the office of the state appellate public defender; and

(iv) One (1) representative from the Idaho juvenile justice commission.

(2) No individual who is currently employed as a prosecuting attorney or who is a current employee of a law enforcement agency may be a member of the commission.

(3) The members of the commission shall serve the following terms:

(a) The gubernatorial appointees shall serve terms of three (3) years.

(b) The representative appointed by the chief justice of the Idaho supreme court shall serve a term of two (2) years.

(c) The representatives from the state legislature shall serve terms of two (2) years as appointed by the president pro tempore of the senate and speaker of the house of representatives during their legislative terms of office.

(4) A vacancy on the commission shall be filled in the same manner as the original appointment and for the balance of the unexpired term.

(5) The commission shall appoint a chairman and a vice chairman from among its members for a term certain.

(6) The members of the commission shall be compensated as provided for in section 59-509(b), Idaho Code.

Approved March 20, 2018

CHAPTER 162
(S.B. No. 1258)

AN ACT

RELATING TO PUBLIC DEFENSE; AMENDING SECTION 19-850, IDAHO CODE, TO PROVIDE THAT A BOARD OF COUNTY COMMISSIONERS MAY APPLY FOR FUNDS FOR EXTRAORDINARY LITIGATION COSTS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 19-850, Idaho Code, be, and the same is hereby amended to read as follows:

19-850. POWERS AND DUTIES OF THE STATE PUBLIC DEFENSE COMMISSION. (1) The state public defense commission shall:

(a) Promulgate rules in accordance with the provisions of chapter 52, title 67, Idaho Code, establishing the following:

(i) Training and continuing legal education requirements for defending attorneys, which shall promote competency and consistency in case types including, but not limited to, criminal, juvenile, capital, abuse and neglect, post-conviction, civil commitment and criminal contempt;

(ii) Uniform data reporting requirements and model forms for the annual reports submitted pursuant to section 19-864, Idaho Code, which shall include, but not be limited to, caseload, workload and expenditures;

(iii) Model contracts and core requirements for contracts between counties and private attorneys for the provision of indigent defense services, which shall include, but not be limited to, compliance with indigent defense standards;

(iv) Procedures and forms by which counties may apply to the commission, pursuant to section 19-862A, Idaho Code, for funds to be used to bring their delivery of indigent defense services into compliance with applicable indigent defense standards;

(v) Procedures for administrative review and fair hearings in accordance with the Idaho administrative procedure act, which shall

include, but not be limited to, providing for a neutral hearing officer in such hearings;

(vi) Procedures for the oversight, implementation, enforcement and modification of indigent defense standards so that the right to counsel of indigent persons, as provided in section 19-852, Idaho Code, is constitutionally delivered to all indigent persons in this state; and

(vii) Standards for defending attorneys that utilize, to the extent reasonably practicable taking into consideration factors such as case complexity, support services and travel, the following principles:

1. The delivery of indigent defense services should be independent of political and judicial influence, though the judiciary is encouraged to contribute information and advice concerning the delivery of indigent defense services.
2. Defending attorneys should have sufficient time and private physical space so that attorney-client confidentiality is safeguarded during meetings with clients.
3. Defending attorneys' workloads should permit effective representation.
4. Economic disincentives or incentives that impair defending attorneys' ability to provide effective representation should be avoided.
5. Defending attorneys' abilities, training and experience should match the nature and complexity of the cases in which they provide services including, but not limited to, cases involving complex felonies, juveniles and child protection.
6. The defending attorney assigned to a particular case should, to the extent reasonably practicable, continuously oversee the representation of that case and personally appear at every substantive court hearing.
7. There should be reasonable equity between defending attorneys and prosecuting attorneys with respect to resources, staff and facilities.
8. Defending attorneys should obtain continuing legal education relevant to their indigent defense cases.
9. Defending attorneys should be regularly reviewed and supervised for compliance with indigent defense standards and, if applicable, compliance with indigent defense standards as set forth in contractual provisions.
10. Defending attorneys should identify and resolve conflicts of interest in conformance with the Idaho rules of professional conduct and other applicable constitutional standards.

Violation of or noncompliance with the principles listed in this subparagraph does not constitute ineffective assistance of counsel under the constitutions of the United States or the state of Idaho and does not otherwise constitute grounds for post-conviction relief.

(b) On or before January 20, 2015, and by January 20 of each year thereafter as deemed necessary by the commission, make recommendations to the Idaho legislature for legislation on public defense system issues including, but not limited to:

- (i) Enforcement mechanisms; and
- (ii) Funding issues including, but not limited to, formulas for the calculation of local shares and state indigent defense grants.

(c) Review indigent defense providers and defending attorneys to evaluate compliance with indigent defense standards and the terms of state indigent defense grants.

(d) Notwithstanding the provisions of paragraph (a) (iv) of this subsection, establish temporary procedures and model forms by which counties may apply to the commission for state indigent defense grants pursuant to section 19-862A, Idaho Code, to be utilized until rules promulgated pursuant to paragraph (a) (iv) of this subsection are in full force and effect. Such temporary procedures shall not be subject to administrative or judicial review.

(e) Hold at least one (1) meeting in each calendar quarter.

(2) The state public defense commission may:

(a) Hire an executive director, who shall be responsible for the performance of the regular administrative functions of the commission and other duties as the commission may direct. The executive director shall be a nonclassified state employee and shall be compensated as determined by the commission.

(b) Employ persons in addition to the executive director in other positions or capacities as it deems necessary to the proper conduct of commission business and to the fulfillment of the commission's responsibilities. The employees of the commission other than the executive director shall be classified employees and shall receive as compensation an annual salary payable on regular pay periods, the amount of which shall be determined by the commission.

(c) Provide an office, office equipment and facilities as may be reasonably necessary for the proper performance of its duties or the duties of the executive director and other personnel.

(d) Provide training and continuing legal education for indigent defense providers and defending attorneys in order to assist them in satisfying requirements promulgated pursuant to subsection (1) (a) (i) of this section, and use moneys received from a grant or trust or otherwise received and appropriated to provide such training and continuing legal education.

(e) Establish procedures by which indigent defense providers or a county, through its board of county commissioners, may apply to the commission for funds to be used for extraordinary litigation costs including, but not limited to, expert witnesses, evidence testing and investigation, but not including expenses associated with capital crimes.

(f) Hire private counsel to represent the commission in hearings held in accordance with the Idaho administrative procedure act and the rules promulgated pursuant to subsection (1) (a) (v) of this section.

Approved March 20, 2018

CHAPTER 163
(S.B. No. 1265)

AN ACT

RELATING TO FEES FOR A SECURITY FREEZE; AMENDING SECTION 28-52-106, IDAHO CODE, TO PROHIBIT THE CHARGING OF A FEE BY A CONSUMER CREDIT REPORTING AGENCY FOR A PLACEMENT OF A SECURITY FREEZE DURING A TWELVE MONTH PERIOD AND FOR A TEMPORARY LIFT OF A SECURITY FREEZE DURING A TWELVE MONTH PERIOD AND TO PROVIDE A FEE FOR A SECOND OR SUBSEQUENT PLACEMENT OR LIFT OF A SECURITY FREEZE.

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

SECTION 1. That Section 28-52-106, Idaho Code, be, and the same is hereby amended to read as follows:

28-52-106. FEES FOR SECURITY FREEZE. (1) Except as provided in subsection (2) of this section, a consumer reporting agency may not charge an administrative fee, not to exceed six dollars (\$6.00), to a consumer for each the first placement of a security freeze during a twelve (12) month period, and six dollars (\$6.00) for each the first temporary lift of a security freeze. A consumer reporting agency may not charge an administrative fee for a removal of a security freeze during a twelve (12) month period. A consumer reporting agency may charge an administrative fee, not to exceed six dollars (\$6.00), to a consumer for the second or subsequent placement of a security freeze during a twelve (12) month period, and six dollars (\$6.00) for the second or subsequent temporary lift of a security freeze during a twelve (12) month period.

(2) A consumer reporting agency may not charge a fee under section 28-52-103(1)(c), Idaho Code, to a consumer who has been the victim of identity theft and who has submitted to the consumer reporting agency a valid police report, an investigative report or complaint that the consumer has filed with a law enforcement agency.

(3) A consumer may be charged a reasonable fee, not to exceed ten dollars (\$10.00), if the consumer fails to retain the original personal identification number, password or other device provided by the consumer reporting agency and if the consumer asks the consumer reporting agency to reissue the same or a new personal identification number, password or other device.

Approved March 20, 2018

CHAPTER 164
(S.B. No. 1280)

AN ACT

RELATING TO SCHOOL DISTRICTS; AMENDING SECTION 33-501, IDAHO CODE, TO REVISE PROVISIONS REGARDING SCHOOL DISTRICT BOARDS OF TRUSTEES; AMENDING SECTION 33-503, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE ELECTION OF SCHOOL DISTRICT TRUSTEES; AMENDING SECTION 33-505, IDAHO CODE, TO REVISE A CERTAIN DATE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-506, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE ORGANIZATION AND GOVERNMENT OF A SCHOOL DISTRICT BOARD OF TRUSTEES; AMENDING SECTION 33-510, IDAHO CODE, TO REVISE A CERTAIN DATE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-801, IDAHO CODE, TO REVISE A REFERENCE TO A MEETING DATE; AND AMENDING SECTION 33-1003, IDAHO CODE, TO REVISE A MEETING DATE.

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

SECTION 1. That Section 33-501, Idaho Code, be, and the same is hereby amended to read as follows:

33-501. BOARD OF TRUSTEES. (1) Each school district shall be governed by a board of trustees. The board of trustees of each elementary school district shall consist of three (3) members, and the board of trustees of each other school district shall consist of five (5) members. Provided, however, that the board of trustees of any district which has had a change in its district boundaries subsequent to June 30, 1973, may consist of no fewer than five (5) nor more than nine (9) members if such provisions are included as part of an approved proposal to redefine and change trustee zones as provided in section 33-313, Idaho Code. The board of trustees of any district that has had a change in its district boundaries because of district consolidation on and after January 1, 2008, shall consist of five (5) members if two (2) districts consolidated or seven (7) members if three (3) or more districts consolidated. Commencing in 2011~~8~~, a school district trustee shall be elected for a term of four (4) years beginning at twelve o'clock noon on ~~July~~ January 1 next succeeding his election.

(2) Each trustee shall at the time of his nomination and election, or appointment, be a school district elector of his district and a resident of the trustee zone from which nominated and ~~elected~~, or appointed. In the event that a vacancy shall be declared as provided in section 33-504, Idaho Code, and the board of trustees is unable to appoint a trustee from the zone vacated after ninety (90) days, the board of trustees may appoint a person at-large from within the boundaries of the school district to serve as the trustee from the zone where the vacancy occurred.

(3) Each trustee shall qualify for and assume office on ~~July~~ January 1 next following his election, or, if appointed, at the regular meeting of the board of trustees next following such appointment. ~~At the first meeting after a trustee assumes office,~~ An oath of office shall be administered to each the trustee, whether elected, reelected or appointed. Said oath may be administered by the clerk, or by a another trustee, of the district, and the records of the district shall show such oath of office to have been taken, and by whom administered and shall be filed with the official records of the district.

SECTION 2. That Section 33-503, Idaho Code, be, and the same is hereby amended to read as follows:

33-503. ELECTION OF TRUSTEES -- UNIFORM DATE. (1) The election of school district trustees including those in charter districts shall be on the ~~third Tuesday in May following the first Monday in November~~ in odd-numbered years. Notice and conduct of the election, and the canvassing of the returns shall be as provided in chapter 14, title 34, Idaho Code. In each trustee zone, the person receiving the greatest number of votes cast within his zone shall be declared by the board of trustees as the trustee elected from that person's zone.

(2) If any two (2) or more persons residing in the same trustee zone have an equal number of votes ~~in any trustee zone~~ and a greater number than any other nominee residing in that zone, then the board of trustees shall determine the winner by a toss of a coin.

(3) The provisions of sections 67-6601 through 67-6616, Idaho Code, and sections 67-6623 through 67-6630, Idaho Code, shall apply to all elections of school district trustees, except for elections of trustees in a school district that has fewer than five hundred (500) students. Provided however, the county clerk shall stand in place of the secretary of state and the county prosecutor shall stand in place of the attorney general. Any report or fil-

ing required to be filed by or for a candidate by such Idaho Code sections shall be filed with the county clerk of the county wherein the district lies or, in the case of a joint district, with the county clerk of the home county as designated pursuant to section 33-304, Idaho Code.

(4) Incumbent trustees as of the effective date of this act shall have their terms expire on January 1 following the November election of their successors.

SECTION 3. That Section 33-505, Idaho Code, be, and the same is hereby amended to read as follows:

33-505. BOARD OF TRUSTEES, DISTRICT NEWLY CREATED. (1) Within ten (10) days after the entry of any order creating a new school district by the consolidation of districts or parts thereof, the trustees of all school districts involved in the consolidation shall meet at the call of the state superintendent of public instruction or his designee and, from their number, shall select a board of trustees of the new district representing each of the merged districts in an equal number to serve as follows: if two (2) districts consolidated, one (1) member representing the board of trustees of each district shall serve until the annual election of trustees next following; one (1) member representing the board of trustees of each district shall serve until the annual election the following year; and one (1) member appointed by the other four (4) members shall serve until the annual election in the year after that. If three (3) or more districts consolidated, three (3) members shall serve until the annual election of trustees next following; three (3) members shall serve until the annual election the following year; and one (1) member appointed by the other six (6) members shall serve until the annual election in the year after that. If the number of merged districts is greater than three (3), the superintendent of public instruction shall appoint as equally as possible from trustees of the previous districts so that each district, if possible, has representation on the consolidated district's board of trustees. The superintendent shall stagger the terms of his appointments so that an equal number of appointees' terms expire annually and those trustees shall sit for election. Thereafter, all trustees who are elected shall serve terms as provided in section 33-501, Idaho Code, for a board of trustees of a school district. The board of trustees shall report the names of said trustees to the state board of education. The board of trustees of the newly consolidated school district shall expeditiously redraw the trustee zones pursuant to section 33-313, Idaho Code.

(2) The state board of education, at its first meeting next following receipt of notice of the creation of new school districts by the division of a district, shall appoint a board of trustees for each such new district, to serve until ~~July~~ January 1 next following the next election for school district trustees.

(3) Boards of trustees selected or appointed as in this section provided shall forthwith meet and organize as provided in section 33-506, Idaho Code, and thereupon the board of trustees of any district, the whole of which has been incorporated within the new district, or which was divided as the case may be, shall be dissolved and its powers and duties shall cease. Prior to the notice of annual election of trustees next following, the board of trustees of each school district created by consolidation or by division of districts shall determine by lot or by agreement from which of the trustee zones the trustees therefor shall be elected. Thereafter each trustee shall be elected for a term of four (4) years.

SECTION 4. That Section 33-506, Idaho Code, be, and the same is hereby amended to read as follows:

33-506. ORGANIZATION AND GOVERNMENT OF BOARD OF TRUSTEES. (1) Each board of school district trustees shall organize at its annual first regular meeting after the January 1 directly following an election and elect a chairman, a vice-chairman, a clerk, and a treasurer. The clerk and the treasurer may be members of the board of trustees; or, in the discretion of the board, either or both may be selected from among competent and responsible persons outside the membership of the board. The board in its discretion may allow compensation for the clerk, and for the treasurer if other than the county treasurer.

(2) Each member of the board not otherwise compensated by public moneys shall be compensated for actual expenses incurred for travel to, from, and attending meetings of the board. Such compensation shall be paid from the district school funds.

(3) It shall be the duty of each member of the board of trustees to attend all meetings, both regular and special; and the board shall have the following powers and duties:

1-(a) To make by-laws, rules and regulations for its government and that of the district, consistent with the laws of the state of Idaho and the rules and regulations of the state board of education;

2-(b) To call special meetings or elections for such purpose as may be necessary for the proper conduct and management of the school or schools of the district;

3-(c) To employ an attorney or attorneys when deemed for the best interests of the district, or for the purpose of defending the district against any suit or for bringing action deemed necessary to be commenced by the board.

SECTION 5. That Section 33-510, Idaho Code, be, and the same is hereby amended to read as follows:

33-510. ANNUAL MEETINGS -- REGULAR MEETINGS -- BOARDS OF TRUSTEES. (1) The annual meeting of each school district shall be on the date of its regular July January meeting in each year. Notice of the annual meeting of elementary school districts shall be given as provided in section 33-402, Idaho Code, but one (1) publication shall suffice.

(2) Regular meetings of each board of school district trustees shall be held monthly, on a uniform day of a uniform week as determined at the annual meeting. Special meetings may be called by the chairman or by any two (2) members of the board and held at any time. If the time and place of special meetings shall not have been determined at a meeting of the board with all members being present, then notice of the time and place shall be given to each member and announced by written notice conspicuously posted at the school district office and at least two (2) or more public buildings within the school district not less than twenty-four (24) hours before such special meeting is to be convened.

(3) A quorum for the transaction of business of the board of trustees shall consist of a majority of the members of the board. Unless otherwise provided by law, all questions shall be determined by a majority of the vote cast. The chairman of the board may vote in all cases.

(4) All meetings shall conform to the provisions of chapter 2, title 74, Idaho Code.

SECTION 6. That Section 33-801, Idaho Code, be, and the same is hereby amended to read as follows:

33-801. SCHOOL DISTRICT BUDGET. No later than twenty-eight (28) days or, if the conditions provided for in section 33-804(4), Idaho Code, have been met, fourteen (14) days prior to its annual regular July meeting, the board of trustees of each school district shall have prepared a budget, in

form prescribed by the state superintendent of public instruction, and shall have called and caused to be held a public hearing thereon, and at such public hearing, or at a special meeting held no later than fourteen (14) days after the public hearing, shall adopt a budget for the ensuing year. Notice of the hearing shall be posted, and published as prescribed in section 33-402, Idaho Code, and a record of the hearing shall be kept by the clerk of the board of trustees. At the time said notice is given and until the date of the hearing, a copy of the budget shall be available for public inspection at all reasonable times at the administrative offices of the school district, or at the office of the clerk of the district. The board of trustees of each school district shall also prepare and publish, as a part of such notice, a summary statement of the budget for the current and ensuing years. Such statement shall be prepared in a manner consistent with standard accounting practices and in such form as the state superintendent of public instruction shall prescribe, and, among other things, said statement shall show amounts budgeted for all major classifications of income and expenditures, with total amounts budgeted for salary and wage expenditures in each such classification shown separately. Such statement shall show amounts actually expended for the two (2) previous years for the same classification for purposes of comparison. The budgeted dollar amounts of revenue in those categories included within the provisions of section 33-802, Idaho Code, as approved within the adopted budget shall be the same as presented to the respective county commissioners for tax levy purposes.

SECTION 7. That Section 33-1003, Idaho Code, be, and the same is hereby amended to read as follows:

33-1003. SPECIAL APPLICATION OF EDUCATIONAL SUPPORT PROGRAM. (1) Decrease in Average Daily Attendance. -- For any school district that has a decrease in total average daily attendance of three percent (3%) or more of its average daily attendance in the current school year from the total average daily attendance used for determining the allowance in the educational support program for the prior school year, the allowance of funds from the educational support program may be based on the average daily attendance of the prior school year, less three percent (3%). When this provision is applied, the decrease in average daily attendance shall be proportionately distributed among the various categories of support units that are appropriate for the district. After applying the provisions of this subsection, the state department of education shall calculate the percentage of additional statewide support units to total statewide support units and shall then reduce each school district's support units by this uniform percentage. The provisions of this subsection shall not apply to public charter schools.

(2) Application of Support Program to Separate Schools/Attendance Units in District.

(a) Separate Elementary School. -- Any separate elementary school shall be allowed to participate in the educational support program as though the school were the only elementary school operated by the district.

(b) Hardship Elementary School. -- Upon application of the board of trustees of a school district, the state board of education is empowered to determine that a given elementary school or elementary schools within the school district, not otherwise qualifying, are entitled to be counted as a separate elementary school as defined in section 33-1001, Idaho Code, when, in the discretion of the state board of education, special conditions exist warranting the retention of the school as a separate attendance unit and the retention results in a substantial increase in cost per pupil in average daily attendance above the average cost per pupil in average daily attendance of the remainder of the district's elementary grade school pupils. An elementary school operating

as a previously approved hardship elementary school shall continue to be considered as a separate attendance unit, unless the hardship status of the elementary school is rescinded by the state board of education.

(c) Separate Secondary School. -- Any separate secondary school shall be allowed to participate in the educational support program as though the school were the only secondary school operated by the district.

(d) Elementary/Secondary School Attendance Units. -- Elementary grades in an elementary/secondary school will be funded as a separate attendance unit if all elementary grades served are located more than ten (10) miles distance by an all-weather road from both the nearest like elementary grades within the same school district and from the location of the office of the superintendent of schools of such district, or from the office of the chief administrative officer of such district if the district employs no superintendent of schools. Secondary grades in an elementary/secondary school will be funded as a separate attendance unit if all secondary grades served are located more than fifteen (15) miles by an all-weather road from the nearest like secondary grades operated by the district.

(e) Hardship Secondary School. -- Any district that operated two (2) secondary schools separated by less than fifteen (15) miles, but which district was created through consolidation subsequent to legislative action pursuant to chapter 111, laws of 1947, and which school buildings were constructed prior to 1935, shall be entitled to count the schools as separate attendance units.

(f) Minimum Pupils Required. -- Any elementary school having less than ten (10) pupils in average daily attendance shall not be allowed to participate in the state or county support program unless the school has been approved for operation by the state board of education.

(3) Remote Schools. -- The board of trustees of any Idaho school district that operates and maintains a school that is remote and isolated from the other schools of the state because of geographical or topographical conditions may petition the state board of education to recognize and approve the school as a remote and necessary school. The petition shall be in form and content approved by the state board of education and shall provide such information as the state board of education may require. Petitions for the recognition of a school as a remote and necessary school shall be filed annually at least ninety (90) days prior to the date of the annual regular June meeting of the board of trustees ~~as established in section 33-510, Idaho Code.~~

Within forty-five (45) days after the receipt of a petition for the recognition of a remote and necessary school, the state board of education shall either approve or disapprove the petition and notify the board of trustees of its decision. Schools that the state board of education approves as being necessary and remote shall be allowed adequate funding within the support program for an acceptable educational program for the students of the school. In the case of a remote and necessary secondary school, grades 7-12, the educational program shall be deemed acceptable when, in the opinion of the state board of education, the accreditation standard relating to staff size, established in accordance with the provisions of section 33-119, Idaho Code, has been met. The final determination of an acceptable program and adequate funding in the case of a remote and necessary elementary school shall be made by the state board of education.

(4) Support Program When District Boundaries are Changed.

(a) In new districts formed by the division of a district, the support program computed for the district, divided in its last year of operation, shall be apportioned to the new districts created by the division in the proportion that the average daily attendance of pupils, elementary and secondary combined, residing in the area of each new district so created, is to the average daily attendance of all pupils, elementary

and secondary combined, in the district divided in its last year of operation before the division.

(b) When boundaries of districts are changed by excision or annexation of territory, the support program of any district from which territory is excised for the last year of operation before such excision shall be divided, and apportioned among the districts involved, as prescribed in paragraph (a) of this subsection.

(c) In new districts formed by consolidation of former districts after January 1, 2007, the support program allowance, for a seven (7) year period following the formation of the new district, shall not be less than the combined support program allowances of the component districts in the last year of operation before consolidation. After the expiration of this period, the state department of education shall annually calculate the number of support units that would have been generated had the previous school districts not consolidated. All applicable state funding to the consolidated district shall then be provided based on a support unit number that is halfway between this figure and the actual support units, provided that it cannot be less than the actual support units.

Approved March 20, 2018

CHAPTER 165
(S.B. No. 1285)

AN ACT

RELATING TO CREDIT UNIONS; REPEALING SECTION 26-2113, IDAHO CODE, RELATING TO MEETINGS; AMENDING CHAPTER 21, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-2113, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING MEMBER VOTING; AMENDING CHAPTER 21, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-2113A, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING ANNUAL MEMBERSHIP MEETINGS; AMENDING CHAPTER 21, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-2113B, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING SPECIAL MEMBERSHIP MEETINGS; REPEALING SECTION 26-2114, IDAHO CODE, RELATING TO OFFICIALS; AMENDING CHAPTER 21, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-2114, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING THE BOARD OF DIRECTORS; AMENDING CHAPTER 21, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-2114A, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING CERTAIN QUALIFICATIONS; AMENDING CHAPTER 21, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-2114B, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING FIDUCIARY DUTY; REPEALING SECTION 26-2115, IDAHO CODE, RELATING TO OFFICERS; AMENDING CHAPTER 21, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-2115, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING OFFICERS; REPEALING SECTION 26-2116, IDAHO CODE, RELATING TO THE BOARD OF DIRECTORS; AMENDING CHAPTER 21, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-2116, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING THE BOARD OF DIRECTORS; REPEALING SECTION 26-2118, IDAHO CODE, RELATING TO A CREDIT COMMITTEE; AMENDING CHAPTER 21, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-2118, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING A CREDIT COMMITTEE; REPEALING SECTION 26-2121, IDAHO CODE, RELATING TO A SUPERVISORY COMMITTEE; AMENDING CHAPTER 21, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-2121, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING A SUPERVISORY COMMITTEE; AMENDING CHAPTER 21, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-2121A, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING THE DUTIES OF A SUPERVISORY COMMITTEE; AMENDING CHAPTER 21, TITLE 26,

IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-2121B, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING SUSPENSION OF MEMBERS OF THE BOARD OF DIRECTORS; AMENDING CHAPTER 21, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-2121C, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING CERTAIN SUSPENSIONS; AMENDING CHAPTER 21, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-2121D, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING REMOVAL OF A DIRECTOR OR SUPERVISORY COMMITTEE MEMBER; AND AMENDING CHAPTER 21, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-2156, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING BOND COVERAGE.

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

SECTION 1. That Section 26-2113, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 21, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-2113, Idaho Code, and to read as follows:

26-2113. MEMBER VOTING. (1) No member may have more than one (1) vote. A natural person may not hold more than one (1) membership in a credit union on behalf of himself or herself. An organization having membership in a credit union may cast one (1) vote through a natural person agent authorized in accordance with any requirements of the credit union.

(2) Members may vote, as prescribed in the credit union's bylaws, by mail ballot, absentee ballot, or other methods, which may include electronic methods. However, no member may vote by proxy.

(3) A member who is not at least eighteen (18) years of age is not eligible to vote as a member unless otherwise provided in the credit union's bylaws.

SECTION 3. That Chapter 21, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-2113A, Idaho Code, and to read as follows:

26-2113A. ANNUAL MEMBERSHIP MEETINGS. (1) A credit union's annual membership meeting shall be held in the community of its principal place of business within this state, at such time as the bylaws prescribe, and shall be conducted according to the rules of procedure approved by the board. The director may, upon written request of a credit union's board of directors, authorize a credit union's annual membership meeting to be held outside of the community of its principal place of business. Written requests from the credit union's board of directors shall not include holding the credit union's annual meeting outside the state of Idaho unless a majority of the credit union's membership resides in another state.

(2) Notice of the annual membership meetings of a credit union shall be given as provided in the bylaws of the credit union.

SECTION 4. That Chapter 21, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-2113B, Idaho Code, and to read as follows:

26-2113B. SPECIAL MEMBERSHIP MEETINGS. (1) A special membership meeting of a credit union may be called by:

(a) A majority vote of the board;

(b) A majority vote of the supervisory committee to suspend a director for cause; or

(c) A written petition signed or similarly authenticated by at least ten percent (10%) or two thousand (2,000) of the members of a credit union, whichever is less.

(2) Call of a special membership meeting of a credit union shall be in writing submitted to the secretary of the credit union by the board, the petitioners or the supervisory committee as applicable and, shall state specifically the purpose or purposes for which the meeting is called and the agenda item or items for consideration by the members at the meeting. If the special membership meeting is called for the removal of one (1) or more directors or supervisory committee members, the call shall state the name of each individual whose removal is sought.

(3) (a) On receipt of a call for a special membership meeting, the secretary of the credit union shall determine whether the call satisfies the requirements of this section. If so, the secretary shall determine a reasonable date, time, and place at which the special membership meeting will be held and provide notice of the special membership meeting in accordance with the requirements of this subsection. The special membership meeting must be held at a reasonable location within the county in which the principal place of business of the credit union is located, unless provided otherwise in the bylaws. The special membership meeting must be held no later than sixty (60) days after the date on which the call is received by the secretary.

(b) The secretary shall give notice of the special membership meeting at least thirty (30) days before the date of the meeting, or within such other reasonable time period as may be provided in the bylaws. The notice must state the purpose or purposes for which the special membership meeting is called and the agenda items for the meeting. If the special membership meeting is called for the removal of one (1) or more directors or supervisory committee members, the notice must state the name of each individual whose removal is sought.

(4) Except as provided in this subsection, the chairperson of the board shall preside over special membership meetings. If the purpose of the special membership meeting includes the removal of the chairperson, the next highest-ranking board officer whose removal is not sought shall preside over the meeting. If the removal of all board officers is sought, the chairperson of the supervisory committee shall preside over the special membership meeting.

(5) At the special membership meeting, only those agenda items that are stated in the notice for the meeting may be considered.

(6) Special membership meetings shall be conducted according to the rules of procedure set forth in the bylaws. If the bylaws do not specify the rules of procedure that shall govern a special membership meeting, the special membership meeting shall be conducted according to the rules of procedure approved by the board.

SECTION 5. That Section 26-2114, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Chapter 21, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-2114, Idaho Code, and to read as follows:

26-2114. BOARD OF DIRECTORS -- ELECTION OF DIRECTORS -- TERMS -- VACANCIES -- MEETINGS -- RULES. (1) The business and affairs of a credit union shall be managed by a board of no fewer than five (5) and no more than fifteen (15) directors.

(2) The directors must be elected by and from the membership in conjunction with the credit union's annual membership meeting. They shall hold their offices until their successors are elected or appointed.

(3) Directors shall be elected to terms of between one (1) and three (3) years, as provided in the bylaws. If the terms are longer than one (1) year, the directors must be divided into classes, and an equal number of directors, as nearly as possible, must be elected each year.

(4) Except as provided in subsection (5) of this section, any vacancy on the board must be filled by an interim director appointed by the board, unless the interim director would serve a term of fewer than ninety (90) days. Interim directors appointed to fill vacancies created by expansion of the board will serve until the next annual meeting of members. Other interim directors will serve out the unexpired term of the former director, unless provided otherwise in the credit union's bylaws.

(5) In the case of a merger between two (2) credit unions pursuant to section 26-2132, Idaho Code, a board member of the merging credit union may continue to serve as a board member of the continuing credit union for a period not to exceed the equivalent of the duration of his or her unexpired term on the board of the merging credit union, provided that the approved plan of merger or other agreement approved by the director provides for such service on the continuing credit union's board, with a corresponding expansion in the size of the continuing credit union's board not to exceed the limits under subsection (1) of this section.

(6) (a) The board must have at least six (6) regular meetings each year with at least one (1) of these meetings held in each calendar quarter. The board meetings must be held in the community of the credit union's principal place of business within this state. The director may, upon written request of a credit union's board of directors, authorize a credit union's board meetings to be held at another location. Written requests from the credit union's board of directors shall not include holding the credit union's board meeting outside the state of Idaho unless a majority of the credit union's membership resides in another state.

(b) The director may require the board to meet more frequently than six (6) times per year if the director finds it necessary in order to address matters the director determines necessitate more frequent meetings including, without limitation, evidence of any of the following:

(i) The credit union's current composite capital, asset, management, earnings, liquidity, and sensitivity (CAMELS) rating issued by the director is a "3," "4" or "5";

(ii) The credit union's current management component CAMELS rating issued by the director is a "3," "4" or "5";

(iii) The credit union's net worth ratio is less than seven percent (7%);

(iv) The credit union is currently in a troubled condition;

(v) In the judgment of the director, the credit union has committed an unsafe or unsound practice that has not been corrected to the satisfaction of the director and that continues to be a concern to the director, or the credit union is about to commit an unsafe or unsound practice; or

(vi) The credit union has been notified in writing by the director of a significant supervisory or financial concern.

(c) If the director determines, as set forth in paragraph (b) of this subsection, that a board of directors must meet more frequently than as set forth in paragraph (a) of this subsection, the director will send written notice to the board chair, with a copy to the credit union's manager, setting forth the director's findings underlying the determination and the required frequency of the board of directors' meetings. This notice will remain in effect until rescinded in writing by the director.

SECTION 7. That Chapter 21, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-2114A, Idaho Code, and to read as follows:

26-2114A. BOARD MEMBERS -- QUALIFICATIONS. (1) A member of the board of directors must be a natural person and a member of the credit union. If a member of the board of directors ceases to be a member of the credit union, that person's service as a member of the board of directors shall terminate effective on termination of membership in the credit union.

(2) (a) If a member of the board of directors is absent from more than one-fourth (1/4) of the regular board meetings in any twelve (12) month period without being reasonably excused by the board, the member shall no longer serve on the board of directors.

(b) The board shall determine whether a member of the board is excluded from service pursuant to paragraph (a) of this subsection. After such determination has been made, the board secretary shall promptly notify the member of the board that such member shall no longer serve on the board. Failure to provide notice does not affect the termination of the member's service under paragraph (a) of this subsection.

(3) A member of the board of directors must meet any qualification requirements set forth in the credit union's bylaws. If the board determines that a member fails to meet such requirements, the member shall no longer serve on the board.

(4) The operating officers and employees of the credit union may not serve as members of the board of directors of the credit union.

SECTION 8. That Chapter 21, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-2114B, Idaho Code, and to read as follows:

26-2114B. OFFICIALS -- FIDUCIARY DUTY -- RELIANCE ON INFORMATION. (1) Officials owe a fiduciary duty to the credit union and must discharge the duties of their respective positions:

(a) In good faith;

(b) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and

(c) In a manner the official reasonably believes to be in the best interests of the credit union.

(2) In discharging the duties of an official, the official is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) One (1) or more officers or employees of the credit union whom the official reasonably believes to be reliable and competent in the matters presented;

(b) Legal counsel, public accountants or other persons as to matters the official reasonably believes are within the person's professional or expert competence; or

(c) A committee of the board of directors or supervisory committee of which the official is not a member if the official reasonably believes the committee merits confidence.

(3) An official is not acting in good faith if the official has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (2) of this section unwarranted.

(4) An official is not liable for any action taken as a director, or any failure to take any action, if the director performed the duties of the director's office in compliance with this section.

(5) As used in this section, "official" means a member of the board of directors, board officer, supervisory committee member or senior operating officer of the credit union.

SECTION 9. That Section 26-2115, Idaho Code, be, and the same is hereby repealed.

SECTION 10. That Chapter 21, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-2115, Idaho Code, and to read as follows:

26-2115. OFFICERS. (1) Within ten (10) days following the organizational meeting and after each annual membership meeting, the board shall elect from among its members a chair of the board, one (1) or more than one (1) vice-chair and a secretary. The board shall also elect other board officers as provided for in the credit union's bylaws for transacting the business of the board of the credit union. The terms of the board officers shall be one (1) year or until their successors are qualified and elected, unless sooner removed as provided in this chapter. All board officers must be elected members of the board.

(2) The chair and secretary shall execute a certificate of election on a form approved by the department of finance, which certificate shall set forth the names and addresses of the officers, members of the board of directors and committee members elected or appointed. One (1) copy of the certificate of election shall be filed with the department of finance within ten (10) days after such election or appointment.

(3) The board may designate as many operating officers as it deems necessary for conducting the business of the credit union including, but not limited to, a president or chief executive officer who shall be in charge of the credit union's day-to-day operations.

(4) A credit union may use any titles it chooses for the officials holding the positions described in this section as long as such titles are not misleading.

SECTION 11. That Section 26-2116, Idaho Code, be, and the same is hereby repealed.

SECTION 12. That Chapter 21, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-2116, Idaho Code, and to read as follows:

26-2116. BOARD OF DIRECTORS -- POWERS AND DUTIES. (1) The business and affairs of a credit union shall be managed by the board of directors of the credit union. The duties of the board include, but are not limited to, the duties enumerated in this section. The duties listed in subsection (2) of this section may not be delegated by the credit union's board of directors. The duties listed in subsection (3) of this section may be delegated to a committee, officer or employee, with appropriate reporting to the board.

(2) The board shall:

- (a) Retain the chief executive officer, or equivalent officer as specified in the bylaws, and set the chief executive officer's compensation;
 - (b) Set the minimum amount of funds in a share account, if any, required for membership;
 - (c) Establish policies governing the operation of the credit union;
 - (d) Establish the conditions under which a member may be expelled for cause;
 - (e) Approve an annual operating budget for the credit union;
 - (f) Designate those persons or positions authorized to execute or certify documents or records on behalf of the credit union;
 - (g) Review the supervisory committee's annual report; and
 - (h) Authorize the conveyance of real property and buildings.
- (3) In addition, unless delegated, the board shall:

- (a) Determine the maximum amount of shares and deposits that a member may hold in the credit union;
- (b) Set the rate of interest on deposits, including nonmember deposits, and the rate of dividends on shares and authorize the payment of dividends on shares;
- (c) Approve the charge-off of credit union losses;
- (d) Determine the investment of surplus funds of the credit union in investments permitted by this chapter;
- (e) Fill vacancies on all committees; and
- (f) Authorize the credit union to borrow or lend money as needed to carry on the functions of the credit union.

SECTION 13. That Section 26-2118, Idaho Code, be, and the same is hereby repealed.

SECTION 14. That Chapter 21, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-2118, Idaho Code, and to read as follows:

26-2118. CREDIT COMMITTEE -- APPOINTMENT -- DUTIES. (1) The board may appoint a credit committee. The credit committee shall have the general supervision of all loans to members. It shall be the duty of the credit committee to review all applications for loans, to ascertain whether the loan would be for a provident or productive purpose, to determine whether the applicant qualifies for the loan under the credit union's loan and underwriting policies, and to determine whether the security offered, in the credit committee's judgment, is sufficient, and whether the requested terms of the loan are in accordance with the credit union's loan and underwriting policies.

(2) The credit committee shall meet as often as necessary and at least once each month to review delinquent loans. The credit committee shall keep a record of all actions taken at each meeting and shall submit a written report to the members at the annual meetings and to the board monthly.

(3) The credit committee, upon approval by the board, may appoint one (1) or more loan officers to act under the supervision of the credit committee, and a loan officer, when appointed, may make loans without the necessity for a meeting or of approval by any members of the credit committee, as provided in the bylaws. No more than one (1) member of the credit committee may serve in the position of loan officer. No individual shall have authority to disburse funds of the credit union for any loan that has been approved by him in his capacity as loan officer, except that the loan officer may disburse loans approved by him that are fully secured by shares or that do not exceed the credit union's unsecured loan limit set by the board of directors.

(4) No member of the credit committee may serve as a member of the board of directors or supervisory committee while serving as a member of the credit committee.

SECTION 15. That Section 26-2121, Idaho Code, be, and the same is hereby repealed.

SECTION 16. That Chapter 21, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-2121, Idaho Code, and to read as follows:

26-2121. SUPERVISORY COMMITTEE -- MEMBERSHIP -- TERMS -- VACANCIES. (1) A supervisory committee of at least three (3) members must be appointed by the board as provided in the bylaws. Members of the supervisory committee shall serve a term of one (1) to three (3) years, unless sooner removed under this chapter or until their successors are qualified and elected or appointed. The members of the supervisory committee shall be divided into classes so that as equal a number as is possible is appointed each year.

(2) At least one (1) supervisory committee member may attend each regular meeting of the board. However, supervisory committee members may be excluded from executive sessions of board meetings.

(3) (a) If a supervisory committee member is absent from more than one-fourth (1/4) of the committee meetings in any twelve (12) month period without being reasonably excused by the committee, the member shall no longer serve as a member of the committee.

(b) The supervisory committee shall promptly notify the member that such member shall no longer serve as a committee member. Failure to provide notice does not affect the termination of the member's service under paragraph (a) of this subsection.

(4) A supervisory committee member must be a natural person and a member of the credit union. If a member of the supervisory committee ceases to be a member of the credit union, the member shall no longer serve as a committee member.

(5) Any vacancy on the committee must be filled by an interim member appointed by the board.

(6) No operating officer or employee of a credit union may serve on the credit union's supervisory committee. No more than one (1) director may be a member of the supervisory committee at the same time. No member of the supervisory committee may serve on the credit committee or investment committee of the credit union while serving on the supervisory committee. No board officer of a credit union may serve as the chairperson of the supervisory committee.

SECTION 17. That Chapter 21, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-2121A, Idaho Code, and to read as follows:

26-2121A. SUPERVISORY COMMITTEE DUTIES. (1) The supervisory committee of a credit union shall:

(a) Meet at least quarterly;

(b) Keep fully informed as to the financial condition of the credit union and the decisions of the credit union's board;

(c) Perform or arrange for an annual audit of the credit union's financial statements and provide any related findings and recommendations to the board;

(d) Make or cause to be made a verification of member accounts as follows:

(i) At least annually by statistical sampling, with the sampling method to provide for:

1. Random selection;

2. A sample that is representative of the population from which it was selected;

3. An equal chance of selecting each dollar in the population;

4. Sufficient accounts in both number and scope on which to base conclusions concerning management's financial reporting objectives; and

5. Additional procedures to be performed if evidence provided by confirmation alone is not sufficient;

(ii) At least annually by nonstatistical sampling conducted by an independent person licensed as an accountant in the state of Idaho, using a sampling method as set forth in subparagraph (i) of this paragraph and nonstatistical sampling methods consistent with generally accepted auditing standards if such methods provide for:

1. Sufficient accounts in both number and scope on which to base conclusions concerning management's financial report-

ing objectives to provide assurance that the general ledger accounts are fairly stated in relation to the financial statements taken as a whole;

2. Additional procedures to be performed by the accountant if evidence provided by confirmations alone is not sufficient; and

3. Documentation of the sampling procedures used and of their consistency with generally accepted auditing standards, to be provided to the department upon request; or

(iii) At least each two (2) years by controlled verification of all member accounts;

(e) Review or arrange to have reviewed annually the effectiveness of the credit union's internal controls;

(f) Report its findings and recommendations to the board;

(g) Provide an annual written report to members at each annual membership meeting on the credit union's financial condition;

(h) Perform or arrange for additional audits as requested by the board or management or as deemed necessary by the supervisory committee and provide any related findings and recommendations to management or the board as deemed appropriate by the supervisory committee;

(i) Monitor the implementation of management responses to material adverse findings in audits and regulatory examinations;

(j) Implement a process for the supervisory committee to receive and respond to whistleblower complaints; and

(k) Perform any additional duties as specified by the board or in the credit union's bylaws.

(2) The supervisory committee may in its sole discretion retain, at the credit union's expense, independent counsel or other professional advisors or consultants as necessary to perform the duties under this section.

SECTION 18. That Chapter 21, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-2121B, Idaho Code, and to read as follows:

26-2121B. **SUSPENSION OF MEMBERS OF THE BOARD BY SUPERVISORY COMMITTEE -- FOR CAUSE.** (1) The supervisory committee may, for cause, suspend a member of the board, until a special membership meeting called for that purpose is held in accordance with the requirements of section 26-2113B, Idaho Code. The members participating in that meeting shall vote whether to remove the suspended person or persons.

(2) For purposes of this section, "cause" means demonstrated financial irresponsibility, a breach of fiduciary duty to the credit union, or activities which, in the judgment of the supervisory committee, create a material risk to the credit union.

SECTION 19. That Chapter 21, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-2121C, Idaho Code, and to read as follows:

26-2121C. **SUSPENSION OF MEMBERS OF THE BOARD OR SUPERVISORY COMMITTEE BY BOARD -- FOR CAUSE.** (1) The board may, for cause, suspend a member of the board or a member of the supervisory committee until a special membership meeting, called for that purpose, is held. The membership meeting must be held within ninety (90) days after the suspension. The members attending the meeting shall vote whether to remove a suspended party.

(2) For purposes of this section, "cause" means demonstrated financial irresponsibility, a breach of fiduciary duty to the credit union, or activities which, in the judgment of the board, create a material risk to the credit union.

SECTION 20. That Chapter 21, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-2121D, Idaho Code, and to read as follows:

26-2121D. REMOVAL OF DIRECTOR OR SUPERVISORY COMMITTEE MEMBER. (1) The members of a credit union may remove a director of the credit union at a special membership meeting held in accordance with section 26-2113B, Idaho Code, and called for that purpose. If the members remove a director, the members may at the same special membership meeting elect an interim director to complete the remainder of the former director's term of office or authorize the board to appoint an interim director as provided in section 26-2114, Idaho Code.

(2) If at any time, because of the removal of one (1) or more credit union directors under this chapter, the board of directors of a credit union has less than a quorum of directors, all powers and functions vested in or exercisable by the board vest in and are exercisable by the director or directors remaining until such a time as there is a quorum on the board of directors. If all of the directors of a credit union are removed under this chapter, the director of the department of finance shall appoint persons to serve temporarily as directors of the credit union until such a time as their respective successors take office.

(3) The members of a credit union may remove a supervisory committee member at a special membership meeting held in accordance with section 26-2113B, Idaho Code, and called for that purpose. If the members remove a supervisory committee member, the members may at the same special membership meeting elect an interim supervisory committee member to complete the remainder of the former supervisory committee member's term of office or authorize the supervisory committee to appoint an interim supervisory committee member as provided in section 26-2121, Idaho Code.

SECTION 21. That Chapter 21, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-2156, Idaho Code, and to read as follows:

26-2156. BOND COVERAGE. (1) Each credit union must be adequately insured against risk. The board of directors of each credit union must at least annually review its bond and other insurance coverage to ensure that it is adequate in relation to the potential risks facing the credit union and the minimum requirements set by the board.

(2) Each credit union must purchase a blanket fidelity bond that:

(a) Covers the officers, employees, directors, members of official committees, attorneys and other agents;

(b) Covers against loss caused by fraud, dishonesty, burglary, robbery, larceny, theft, forgery or alterations of instruments, misplacement or mysterious disappearance, and for faithful performance of duty; and

(c) Has the following required minimum dollar amount of coverage:

Assets	Minimum Bond
\$0 to \$4,000,000	Lesser of total assets or \$250,000
\$4,000,001 to \$50,000,000	\$100,000 plus \$50,000 for each million or fraction thereof over \$1,000,000
\$50,000,001 to \$500,000,000	\$2,550,000 plus \$10,000 for each million or fraction thereof over \$50,000,000, to a maximum of \$5,000,000
Over \$500,000,000	1% of assets rounded to the nearest hundred million, to a maximum of \$9,000,000

(3) The maximum amount of allowable deductible is computed based on the credit union's asset size and capital level, as follows:

Assets	Maximum Deductible
\$0 to \$100,000	No deductible allowed
\$100,001 to \$250,000	\$1,000
\$250,001 to \$1,000,000	\$2,000
Over \$1,000,000	\$2,000 plus .001 of total assets, to a maximum of \$200,000; for credit unions that received a composite capital, asset, management, earnings, liquidity, and sensitivity (CAMELS) rating of "1" or "2" for the last two (2) full examinations and maintained a net worth classification of "well-capitalized" under national credit union administration (NCUA) regulations part 702 for six (6) immediately preceding quarters or, if subject to a risk-based net worth (RBNW) requirement under NCUA regulations part 702, has remained "well-capitalized" for the six (6) immediately preceding quarters after applying the applicable RBNW requirements, the maximum deductible is \$1,000,000

(4) The director may require an additional amount of bond coverage for a credit union, taking into account the size of the credit union, the credit union's field of membership, risk level of the credit union, and any other factors the director finds relevant to the determination of appropriate bond coverage for a credit union.

(5) The board of directors should purchase additional or enhanced coverage when circumstances warrant.

(6) If a credit union fails to maintain a blanket fidelity bond in the amount prescribed by the director, the director may order the credit union to cease its operations until such time when the credit union obtains the required bond.

(7) When a credit union receives notice that its fidelity bond coverage will be suspended or terminated, the credit union shall notify the director in writing no fewer than thirty (30) days prior to the effective date of the suspension or termination.

Approved March 20, 2018

CHAPTER 166
(S.B. No. 1288)

AN ACT

RELATING TO AUTHORIZATION FOR OUT-OF-STATE INSURERS; AMENDING SECTION 41-306, IDAHO CODE, TO PROVIDE EXCEPTIONS TO CERTIFICATE OF AUTHORITY REQUIREMENTS FOR CERTAIN OUT-OF-STATE INSURERS AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 3, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-306A, IDAHO CODE, TO PROVIDE THAT CERTAIN FOREIGN INSURERS MAY OFFER AND SELL INDIVIDUAL OR GROUP ACCIDENT AND SICKNESS INSURANCE POLICIES IN IDAHO, TO PROVIDE FOR CERTIFICATES OF AUTHORITY, TO PROVIDE REQUIREMENTS FOR FOREIGN INSURERS, TO PROVIDE FOR THE PAYMENT OF TAXES, TO PROVIDE FOR PARTICIPATION IN THE HIGH RISK REINSURANCE POOL, TO PROVIDE FOR RULEMAKING AND TO PROVIDE FOR COMPACTS; AMENDING CHAPTER 5, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-516, IDAHO CODE, TO DEFINE A TERM; AND PROVIDING SEVERABILITY.

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

SECTION 1. That Section 41-306, Idaho Code, be, and the same is hereby amended to read as follows:

41-306. EXCEPTIONS TO CERTIFICATE OF AUTHORITY REQUIREMENT. A certificate of authority and application therefor pursuant to section 41-319, Idaho Code, shall not be required of an insurer with respect to the following:

(1) Investigation, settlement, or litigation of claims under its policies lawfully written in this state, or liquidation of assets and liabilities of the insurer (other than collection of new premiums), all as resulting from its former authorized operations in this state.

(2) Transactions thereunder subsequent to issuance of a policy covering only subjects of insurance not resident, located or expressly to be performed in this state at time of issuance, and lawfully solicited, written and delivered outside this state.

(3) Transactions pursuant to surplus lines coverages lawfully written under chapter 12 ~~of this code, title 41, Idaho Code.~~

(4) Reinsurance, when transacted by an insurer duly authorized by its state of domicile to transact the kind of insurance involved.

(5) The continuation and servicing of life insurance or disability insurance policies or annuity contracts remaining in force as to residents of this state if the insurer has withdrawn from the state and is not transacting new insurance therein.

(6) A foreign insurer licensed and authorized to sell individual or group accident and sickness insurance in another state as defined pursuant to section 41-306A, Idaho Code, and the insurer obtains a certificate of authority pursuant to that section.

SECTION 2. That Chapter 3, 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 41-306A, Idaho Code, and to read as follows:

41-306A. INTERSTATE INSURANCE SALES. (1) A foreign insurer subject to the jurisdiction of another state's insurance department or insurance commissioner and licensed and authorized to transact health or disability insurance in its state of domicile may offer and sell an individual or group accident and sickness insurance policy as defined in section 41-516, Idaho Code, in Idaho as long as that individual or group accident and sickness policy provides the mandatory coverages this title requires for insurers.

(2) The director may issue a certificate of authority to a foreign insurer to sell individual or group accident and sickness insurance policies in this state as long as that insurer is licensed in good standing in another state to sell individual or group accident and sickness insurance, remains licensed in good standing in that state to sell individual or group accident and sickness insurance and complies with the provisions of subsection (3) of this section. If an insurer is no longer licensed in good standing to sell individual or group accident and sickness insurance by its domiciled state, it shall be ineligible to do business in this state and its certificate of authority shall terminate immediately unless it obtains an independent certificate of authority in this state pursuant to chapter 3, title 41, Idaho Code, and complies with the provisions of this title.

(3) In order for a foreign insurer to offer and sell individual or group accident and sickness insurance policies to residents of this state, the foreign insurer agrees that any dispute regarding its policies, benefits, contracts or coverages purchased by Idaho residents shall be governed by Idaho law, shall be either litigated in Idaho or have an alternative dispute resolution conducted in Idaho and shall appoint the director as its agent for service of process pursuant to section 41-333, Idaho Code. The foreign insurer submits to the jurisdiction of the department of insurance for all purposes under this title and is subject to all provisions of this title and rules promulgated thereunder applicable to insurers transacting accident and sickness insurance in Idaho. The foreign insurer must pay all fees and assessments provided by law under this title. The department of insurance may ensure that the forms used by a foreign insurer are appropriate and not misleading. Agents used by such foreign insurers are required to be licensed in Idaho.

(4) Insurers selling policies in Idaho pursuant to this section shall comply with the provisions of section 41-402, Idaho Code, and remit the tax as provided in that section. Insurers selling policies in Idaho pursuant to this section shall be required to participate in the high risk reinsurance pool pursuant to chapter 55, title 41, Idaho Code.

(5) The department of insurance shall promulgate, adopt and enforce such rules and such methods of administration as may be necessary or proper to carry out the provisions of this section.

(6) The department of insurance is authorized to enter into compacts with other states for purposes of this section.

SECTION 3. 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 41-516, Idaho Code, and to read as follows:

41-516. INDIVIDUAL OR GROUP ACCIDENT AND SICKNESS INSURANCE DEFINED. "Individual or group accident and sickness insurance" means any policy insuring against loss resulting from sickness or from bodily injury or death by accident, or both. "Individual or group accident and sickness insurance" shall also include comprehensive major medical coverage for medical and surgical benefits and high deductible health plans sold or maintained under the applicable provisions of section 223 of the Internal Revenue Code.

SECTION 4. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

Approved March 20, 2018

CHAPTER 167
(S.B. No. 1302)

AN ACT

RELATING TO INSURANCE; AMENDING CHAPTER 18, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1852, IDAHO CODE, TO DEFINE A TERM, TO PROHIBIT CERTAIN DISCRIMINATION AND TO PROVIDE FOR ENFORCEMENT.

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

SECTION 1. That Chapter 18, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-1852, Idaho Code, and to read as follows:

41-1852. DISCRIMINATION AGAINST LIVING ORGAN DONORS PROHIBITED. (1) For purposes of this section, "policy" means a life insurance policy, disability insurance policy or long-term care insurance policy.

(2) Notwithstanding any provision of law to the contrary, it shall be unlawful to discriminate against a person in the offering, issuance, cancellation, price or conditions of a policy, or in the amount of coverage provided under a policy, based solely and without any additional actuarial risks on the status of such person as a living organ donor.

(3) The director of the department of insurance may take such actions authorized under this title that are necessary to enforce this section.

Approved March 20, 2018

CHAPTER 168
(S.B. No. 1309, As Amended)

AN ACT

RELATING TO FIRE DISTRICTS; AMENDING SECTION 31-1409, IDAHO CODE, TO PROVIDE FOR APPOINTMENT OR ELECTION, TO CLARIFY THAT CERTAIN NOTICE SHALL BE REQUIRED FOR TEMPORARY VACANCY OF A COMMISSIONER, TO REVISE PROVISIONS REGARDING FILLING A VACANCY AND TO PROVIDE A PROCEDURE IF A CERTAIN PERCENTAGE OF ELECTED OFFICIAL SEATS ON A FIRE PROTECTION BOARD BECOME VACANT; REPEALING SECTION 31-1418, IDAHO CODE, RELATING TO TEMPORARY INABILITY OF A COMMISSIONER; AND AMENDING SECTION 56-1018B, IDAHO CODE, TO AUTHORIZE THE BUREAU OF EMERGENCY MEDICAL SERVICES TO MAKE GRANTS TO FIRE DISTRICTS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 31-1409, Idaho Code, be, and the same is hereby amended to read as follows:

31-1409. RESIDENCE QUALIFICATIONS OF COMMISSIONERS -- TERM OF OFFICE -- VACANCIES. (1) At the meeting of the board of county commissioners at which the fire protection district is declared organized, as provided by section 31-1407, Idaho Code, the county commissioners shall divide the fire protection district into three (3) subdivisions, as nearly equal in population, area and mileage as practicable, to be known as fire protection commissioners subdistricts one, two and three. Not more than one (1) of the fire protection district commissioners shall be a resident of the same fire protection subdistrict, except that any commissioner appointed by the board of county commissioners under section 31-1408, Idaho Code, shall not be disqualified from the completion of the initial term for which the commissioner was appointed because of the subdistrict in which the commissioner resides. The first commissioners appointed by the board of county commissioners shall serve until the next fire protection district election, at which time their successors shall be elected. The term of office for fire protection commissioners shall commence on the second Monday of January succeeding each general election. Commissioners appointed and or elected must be electors residing within the fire protection district for at least one (1) year immediately preceding their appointment or election.

(2) Any fire protection commissioner vacancy occurring, other than by the expiration of the term of office, shall be filled by the fire protection board. If a duly elected or appointed fire protection commissioner resigns, withdraws, becomes disqualified, refuses or, without first providing signed written notice of a temporary vacancy, becomes otherwise unable to perform the duties of office for longer than ninety (90) days, the board, on satisfactory proof of the vacancy, shall declare the office vacant. The board shall fill any vacancies within sixty (60) days of learning of the vacancy. When a vacancy occurs, the board shall direct the secretary to cause a notice of the vacancy to be published in at least one (1) issue of a newspaper of general circulation within the district. The notice shall include the date and time of the meeting when the board will vote to fill the vacancy, and the deadline for qualified elector residents interested in being appointed to the position to submit a written request for appointment to the board. Should the remaining members of the board fail to agree on an individual to fill the vacancy, it shall select the individual in the following manner. ~~If the county commissioners cannot agree on the appointment of a commissioner, by placing the names of all the interested persons who received the highest and equal number of votes shall have their names placed in a container. The county~~ fire commissioner with the most continuous length of service shall

draw one (1) name from the container. The person whose name is drawn shall then be appointed to fill the vacancy.

(3) If more than fifty percent (50%) of the elected official seats on a fire protection district board of commissioners are vacant, any remaining member of the fire protection district board of commissioners, or any elector of the fire protection district, may petition the board of county commissioners of the county or counties in which the subdistrict vacancies are situated to make such appointments as are necessary to fill the vacancies on the fire protection district board of commissioners. The vacancies shall be filled by the board or boards of county commissioners within sixty (60) days of receiving a written petition. Any fire commissioner so appointed shall serve out the remainder of the term for the commissioner last serving in the vacant seat to be filled and shall be a resident of the same fire protection commissioners subdistrict.

SECTION 2. That Section 31-1418, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 56-1018B, Idaho Code, be, and the same is hereby amended to read as follows:

56-1018B. EMERGENCY MEDICAL SERVICES FUND III. (1) There is hereby created in the dedicated fund of the state treasury a fund known as the emergency medical services fund III. Subject to appropriation by the legislature, moneys in the fund shall be used exclusively for the purpose of acquiring vehicles and equipment for use by emergency medical services personnel in the performance of their duties, which include highway safety and emergency response to motor vehicle accidents.

(2) The bureau of emergency medical services of the department of health and welfare shall be responsible for distributing moneys from the fund to qualifying nonprofit and governmental entities that submit an application for a grant from the fund. The bureau shall approve grants based on the following criteria:

(a) The requesting entity is a nonprofit or governmental entity which that holds a current license as an ambulance or nontransport service issued by the state of Idaho;

(b) The requesting entity has demonstrated need based on criteria established by the bureau;

(c) The requesting entity has provided verification that it has received the approval and endorsement of a fire district or city or county within its service area;

(d) The requesting entity has certified that the title to any vehicle purchased with funds from the fund shall be in the name of the fire district or city or county which that endorsed the application and shall submit proof of titling as soon as practicable;

(e) The state of Idaho shall retain a security interest in the vehicle to secure the performance of the grant recipient to utilize the vehicle consistent with the intent described in the application.

(3) Notwithstanding the requirements of subsections (2) (c) and ~~(2) (d)~~ of this section, the bureau of emergency medical services is authorized to approve and issue a grant to an applicant in the absence of an endorsement if the endorsement is withheld without adequate justification.

Approved March 20, 2018

CHAPTER 169
(S.B. No. 1318)

AN ACT

RELATING TO CODIFIER'S CORRECTIONS; AMENDING SECTION 21-142, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 21-148, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-1002, IDAHO CODE, TO MAKE A CODIFIER'S CORRECTION; AMENDING SECTION 33-1004B, IDAHO CODE, TO MAKE CODIFIER'S CORRECTIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 2, CHAPTER 352, LAWS OF 2016, TO MAKE A CODIFIER'S CORRECTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1513, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-105, IDAHO CODE, TO REMOVE REFERENCE TO CERTAIN IDAHO CODE SECTIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-113, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 39-909, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-6004, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 41-3434, IDAHO CODE, TO MAKE A CODIFIER'S CORRECTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-316, IDAHO CODE, TO REMOVE SURPLUS VERBIAGE AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 47-328, IDAHO CODE, TO REMOVE SURPLUS VERBIAGE AND TO MAKE CODIFIER'S CORRECTIONS; AMENDING SECTION 47-330, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 47-331, IDAHO CODE, AS ENACTED BY SECTION 1, CHAPTER 116, LAWS OF 2017, TO REDESIGNATE THE SECTION; AMENDING SECTION 47-331, IDAHO CODE, AS ENACTED BY SECTION 1, CHAPTER 68, LAWS OF 2017, TO REDESIGNATE THE SECTION; AMENDING SECTION 50-703, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE, TO REMOVE OBSOLETE LANGUAGE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1704, IDAHO CODE, TO MAKE CODIFIER'S CORRECTIONS; AMENDING SECTION 54-1733E, IDAHO CODE, AS ENACTED BY SECTION 2, CHAPTER 23, LAWS OF 2017, TO REDESIGNATE THE SECTION; AMENDING SECTION 67-1412, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 67-4129B, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 67-6621, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 72-1347B, IDAHO CODE, TO REMOVE SURPLUS VERBIAGE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 74-107, IDAHO CODE, TO MAKE A CODIFIER'S CORRECTION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 74-206, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 21-142, Idaho Code, be, and the same is hereby amended to read as follows:

21-142. POWERS AND DUTIES OF BOARD. The Idaho transportation board shall be vested with the functions, powers and duties relating to the provisions of this act and shall have power to:

(1) Contract in the name of the state with respect to the rights, powers and duties vested in the board by this act.

(2) Locate, design, construct, reconstruct, alter, extend, repair and maintain state aeronautical facilities when determined by the board to be in the public interest.

(3) Establish standards for the location, design, construction, reconstruction, alteration, extension, repair and maintenance of state aeronautical facilities.

(4) Make annually on or before the first day of December of each year, and at such other times as the governor may require, reports in writing to the governor concerning the condition, management and financial transactions of the transportation department.

(5) Purchase, condemn or otherwise acquire, and exchange any real property, either in fee or in any lesser estate or interest, rights-of-way, easements and other rights together with rights of direct access from the property abutting aeronautical facilities, deemed necessary by the board for present or future aeronautical purposes. The order of the board that the land sought is necessary for such use shall be prima facie evidence of such fact.

(6) Cooperate with, receive and expend grants from the federal government, and receive and expend gifts and grants from other sources for the construction and improvement of any aeronautical facility and, when authorized or directed by any act of congress or any rule or regulation of any agency of the federal government, expend funds so donated or granted.

(7) Contract jointly with counties, municipalities and other public agencies for the improvement and construction of aeronautical facilities.

(8) Expend funds for the construction, maintenance and improvement of publicly owned aeronautical facilities.

(9) Prescribe rules and regulations affecting aeronautical facilities, and enforce compliance therewith.

(10) Cooperate financially or otherwise with any other state, county or city of any other state, or with any foreign country or any province or district of any foreign country, or with the government of the United States, or any agency thereof, or private agencies or persons, or with any or all thereof for the erecting, ~~construction~~ constructing, reconstructing, and maintaining of any aeronautical facility between the state of Idaho and any other state or foreign country, and for the purchase or condemnation or other acquisition of right-of-way therefor.

(11) Close or restrict the use of any state aeronautical facility whenever such closing or restricting of use is deemed necessary.

(12) Establish such departmental divisions as are necessary for the full and efficient administration of this act.

(13) Employ such personnel as are necessary, subject to the provisions of the public employees retirement system (chapter 13, title 59, Idaho Code), group insurance plan (chapter 12 57, title 59 67, Idaho Code), or personnel system (chapter 53, title 67, Idaho Code).

(14) Sell, exchange, or otherwise dispose of and convey, in accordance with law, any real or personal property, other than public lands which by the constitution and laws of the state of Idaho are placed under the jurisdiction of the state land board, or parts thereof, together with appurtenances, when, in the opinion of the board, said real property and/or appurtenances are no longer needed for state aeronautical purposes, and also dispose of any surplus materials and by-products from such property and appurtenances.

(15) Establish rules and regulations, consistent with the laws of Idaho, for the expenditure of all moneys appropriated and/or allotted by law to the Idaho transportation department or the board.

(16) Exercise such other powers and duties, including the adoption of bylaws, rules and regulations, necessary to fully implement and carry out the provisions of this act and the provisions of title 21, Idaho Code, not inconsistent herewith.

SECTION 2. That Section 21-148, Idaho Code, be, and the same is hereby amended to read as follows:

21-148. CONTINUATION OF RIGHTS AND PRIVILEGES OF PRESENT EMPLOYEES -- EFFECT. Nothing herein contained shall affect the rights or privileges of employees of the present department of aeronautics under the public

employees retirement system (chapter 13, title 59, Idaho Code), group insurance plan (chapter 12 57, title 59 67, Idaho Code), or personnel system (chapter 53, title 67, Idaho Code).

SECTION 3. That Section 33-1002, Idaho Code, be, and the same is hereby amended to read as follows:

33-1002. EDUCATIONAL SUPPORT PROGRAM. The educational support program is calculated as follows:

(1) State Educational Support Funds. Add the state appropriation, including the moneys available in the public school income fund, together with all miscellaneous revenues to determine the total state funds.

(2) From the total state funds subtract the following amounts needed for state support of special programs provided by a school district:

(a) Pupil tuition-equivalency allowances as provided in section 33-1002B, Idaho Code;

(b) Transportation support program as provided in section 33-1006, Idaho Code;

(c) Feasibility studies allowance as provided in section 33-1007A, Idaho Code;

(d) The approved costs for border district allowance, provided in section 33-1403, Idaho Code, as determined by the state superintendent of public instruction;

(e) The approved costs for exceptional child approved contract allowance, provided in subsection 2. of section 33-2004, Idaho Code, as determined by the state superintendent of public instruction;

(f) Salary-based apportionment calculated as provided in sections 33-1004 through 33-1004F, Idaho Code;

(g) Unemployment insurance benefit payments according to the provisions of section 72-1349A, Idaho Code;

(h) For expenditure as provided by the public school technology program;

(i) For employee severance payments as provided in section 33-521, Idaho Code;

(j) For distributions to the Idaho digital learning academy as provided in section 33-1020, Idaho Code;

(k) For charter school facilities funds and reimbursements paid pursuant to section 33-5208(5), Idaho Code;

(l) For an online course portal as provided for in section 33-1024, Idaho Code;

(m) For advanced opportunities as provided for in chapter 46, title 33, Idaho Code;

(n) For additional math and science courses for high school students as provided in section 33-1021, Idaho Code;

(o) For leadership premiums as provided in section 33-1004J, Idaho Code;

(p) For the support of provisions that provide a safe environment conducive to student learning and maintain classroom discipline, an allocation of three hundred dollars (\$300) per support unit;

(q) An amount specified in the appropriation bill for the public schools educational support program for counseling support as provided for in section 33-1212A, Idaho Code, shall be distributed for grades 8 through 12 as follows:

(i) For school districts and public charter schools with one hundred (100) or more students enrolled in grades 8 through 12, a pro rata distribution based on students enrolled in grades 8 through 12 or fourteen thousand dollars (\$14,000), whichever is greater;

(ii) For school districts and public charter schools with fewer than one hundred (100) students enrolled in grades 8 through 12,

one hundred forty dollars (\$140) per student enrolled in grades 8 through 12 or seven thousand dollars (\$7,000), whichever is greater;

(r) An amount specified in the public schools educational support program appropriation bill for literacy intervention pursuant to section 33-1616, Idaho Code, the disbursements made to the school districts and public charter schools in the aggregate shall not exceed the total amount appropriated for this purpose and shall be based on the actual costs of such intervention programs. School districts and public charter schools shall be reimbursed in full or in pro rata based on the average number of students in kindergarten through grade 3 who score basic or below basic on the fall statewide reading assessment in the prior three (3) years;

(s) For mastery-based education as provided for in section 33-1630, Idaho Code;

(t) For pay for success contracting in section 33-125B, Idaho Code; and

(v) Any additional amounts as required by statute to effect administrative adjustments or as specifically required by the provisions of any bill of appropriation;

to secure the total educational support distribution funds.

(3) Average Daily Attendance. The total state average daily attendance shall be the sum of the average daily attendance of all of the school districts of the state. The state board of education shall establish rules setting forth the procedure to determine average daily attendance and the time for, and method of, submission of such report. Average daily attendance calculation shall be carried out to the nearest hundredth. Computation of average daily attendance shall also be governed by the provisions of section 33-1003A, Idaho Code.

(4) Support Units. The total state support units shall be determined by using the tables set out hereafter called computation of kindergarten support units, computation of elementary support units, computation of secondary support units, computation of exceptional education support units, and computation of alternative school support units. The sum of all of the total support units of all school districts of the state shall be the total state support units.

COMPUTATION OF KINDERGARTEN SUPPORT UNITS

Average Daily		
Attendance	Attendance Divisor	Units Allowed
41 or more	40	1 or more as computed
31 - 40.99 ADA	-	1
26 - 30.99 ADA . . . .	- . . . . .	.85
21 - 25.99 ADA . . . .	- . . . . .	.75
16 - 20.99 ADA . . . .	- . . . . .	.6
8 - 15.99 ADA . . . .	- . . . . .	.5
1 - 7.99 ADA	-	count as elementary

COMPUTATION OF ELEMENTARY SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
300 or more ADA.....	.....	15
	..23...grades 4,5 & 6....	
	..22...grades 1,2 & 3....1994-95	
	..21...grades 1,2 & 3....1995-96	
	..20...grades 1,2 & 3....1996-97 and each year thereafter.	
160 to 299.99 ADA...	20	8.4
110 to 159.99 ADA...	19	6.8
71.1 to 109.99 ADA...	16	4.7
51.7 to 71.0 ADA...	15	4.0
33.6 to 51.6 ADA...	13	2.8
16.6 to 33.5 ADA...	12	1.4
1.0 to 16.5 ADA...	n/a	1.0

COMPUTATION OF SECONDARY SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
750 or more....	18.5	47
400 - 749.99 ADA....	16	28
300 - 399.99 ADA....	14.5	22
200 - 299.99 ADA....	13.5	17
100 - 199.99 ADA....	12	9
99.99 or fewer	Units allowed as follows:	
Grades 7-12	.....	8
Grades 9-12	.....	6
Grades 7-9	.....	1 per 14 ADA
Grades 7-8	.....	1 per 16 ADA

COMPUTATION OF EXCEPTIONAL EDUCATION SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
14 or more....	14.5	1 or more as computed
12 - 13.99....	-	1
8 - 11.99....	- .....	.75
4 - 7.99....	- .....	.5
1 - 3.99....	- .....	.25

COMPUTATION OF ALTERNATIVE SCHOOL SUPPORT UNITS
 (Computation of alternative school support units shall include
 grades 6 through 12)

Pupils in Attendance	Attendance Divisor	Minimum Units Allowed
12 or more.....	12	1 or more as computed

In applying these tables to any given separate attendance unit, no school district shall receive less total money than it would receive if it had a lesser average daily attendance in such separate attendance unit. In applying the kindergarten table to a kindergarten program of fewer days than a full school year, the support unit allowance shall be in ratio to the number of days of a full school year. The attendance of students attending an alternative school in a school district reporting fewer than one hundred (100) secondary students in average daily attendance shall not be assigned to the alternative table if the student is from a school district reporting fewer than one hundred (100) secondary students in average daily attendance, but shall instead be assigned to the secondary table of the school district in which they are attending the alternative school, unless the alternative school in question serves students from multiple districts reporting fewer than one hundred (100) secondary students in average daily attendance. The tables for exceptional education and alternative school support units shall be applicable only for programs approved by the state department of education following rules established by the state board of education. Moneys generated from computation of support units for alternative schools shall be utilized for alternative school programs. School district administrative and facility costs may be included as part of the alternative school expenditures.

(5) State Distribution Factor per Support Unit. Divide educational support program distribution funds, after subtracting the amounts necessary to pay the obligations specified in subsection (2) of this section, by the total state support units to secure the state distribution factor per support unit.

(6) District Support Units. The number of support units for each school district in the state shall be determined as follows:

(a) (i) Divide the actual average daily attendance, excluding students approved for inclusion in the exceptional child educational program, for the administrative schools and each of the separate schools and attendance units by the appropriate divisor from the tables of support units in this section, then add the quotients to obtain the district's support units allowance for regular students, kindergarten through grade 12 including alternative school students. Calculations in application of this subsection shall be carried out to the nearest hundredth.

(ii) Divide the combined totals of the average daily attendance of all preschool, kindergarten, elementary, secondary, juvenile detention center students and students with disabilities approved for inclusion in the exceptional child program of the district by the appropriate divisor from the table for computation of exceptional education support units to obtain the number of support units allowed for the district's approved exceptional child program. Calculations for this subsection shall be carried out to the nearest hundredth when more than one (1) unit is allowed.

(iii) The total number of support units of the district shall be the sum of the total support units for regular students, subparagraph (i) of this paragraph, and the support units allowance for

the approved exceptional child program, subparagraph (ii) of this paragraph.

(b) Total District Allowance Educational Program. Multiply the district's total number of support units, carried out to the nearest hundredth, by the state distribution factor per support unit and to this product add the approved amount of programs of the district provided in subsection (2) of this section to secure the district's total allowance for the educational support program.

(c) District Share. The district's share of state apportionment is the amount of the total district allowance, paragraph (b) of this subsection.

(d) Adjustment of District Share. The contract salary of every noncertificated teacher shall be subtracted from the district's share as calculated from the provisions of paragraph (c) of this subsection.

(7) Property Tax Computation Ratio. In order to receive state funds pursuant to this section, a charter district shall utilize a school maintenance and operation property tax computation ratio for the purpose of calculating its maintenance and operation levy that is no greater than that which it utilized in tax year 1994, less four-tenths of one percent (.4%). As used herein, the term "property tax computation ratio" shall mean a ratio determined by dividing the district's certified property tax maintenance and operation budget by the actual or adjusted market value for assessment purposes as such values existed on December 31, 1993. Such maintenance and operation levy shall be based on the property tax computation ratio multiplied by the actual or adjusted market value for assessment purposes as such values existed on December 31 of the prior calendar year.

SECTION 4. That Section 33-1004B, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004B. CAREER LADDER. (1) Effective July 1, 2015, all existing instructional staff shall be placed in a cohort on the career ladder starting with the second cell on the residency/professional compensation rung that corresponds with the next higher allocation amount than is currently received by the district, based on the experience and education index pursuant to section 33-1004A, Idaho Code, as applied in fiscal year 2015. For each year between July 1, 2015, and June 30, 2019, those instructional staff will move one (1) cell on the career ladder for each year they are employed by a district and meet the applicable performance criteria for the compensation rung and implementation year, unless such movement would result in the district receiving a lesser allocation than the district would have received if the instructional staff would have moved based on the experience and education index as applied in fiscal year 2015, for such instructional staff the district salary apportionment calculation shall use the amount that would have been applied based on the experience and education index. Applicable performance criteria used for determining movement on the career ladder will be based on the previous year's performance for the applicable number of years.

(2) Effective July 1, 2016, all existing pupil service staff shall be placed in a cohort on the career ladder starting with the second cell on the residency/professional compensation rung or the next higher allocation amount than is currently received by the district, or based on the experience and education index pursuant to section 33-1004A, Idaho Code, as applied in fiscal year 2016, whichever is higher. For each year between July 1, 2016, and June 30, 2019, those pupil service staff will move one (1) cell on the career ladder for each year they are employed by a district and meet the applicable performance criteria for the compensation rung and implementation year, unless such movement would result in the district receiving a lesser allocation than the district would have received if the pupil service staff

would have moved based on the experience and education index as applied in fiscal year 2016. For such pupil service staff, the district salary apportionment calculation shall use the amount that would have been applied based on the experience and education index. Applicable performance criteria used for determining movement on the career ladder will be based on the previous year's performance for the applicable number of years.

(3) Instructional staff and pupil service staff who are in their first year of holding a certificate shall be placed in the first cell of the residency compensation rung and shall move one (1) cell on the residency compensation rung for each year they hold a certificate thereafter, for up to three (3) years, at which point they will remain in the third cell of the residency rung until they earn a professional endorsement.

(4) Instructional staff new to teaching in Idaho and pupil service staff new to working in an Idaho public school district or charter school who hold a certificate from a state other than Idaho and who are approved to teach in Idaho will be placed into the cohort of instructional staff on the career ladder table equivalent to their experience and education pursuant to section 33-1004A, Idaho Code, as applied in fiscal year 2015 for instructional staff and 2016 for pupil service staff.

(5) In addition to the allocation amount specified for the applicable cell on the career ladder, school districts shall receive an additional allocation amount for career technical education instructional staff holding an occupational specialist certificate in the area for which they are teaching in the amount of three thousand dollars (\$3,000).

(6) In addition to the allocation amount specified for the applicable cell on the career ladder, school districts shall receive an additional allocation amount for instructional staff and pupil service staff holding a professional endorsement who have acquired additional education and meet the professional compensation rung performance criteria. In determining the additional education allocation amount, only credits and degrees earned based upon a transcript on file with the teacher certification office of the state department of education, earned at an institution of higher education accredited by a body recognized by the state board of education or credits earned through an internship or other work experience approved by the state board of education, shall be credited toward the education allocation. All credits and degrees earned must be in a relevant pedagogy or content area as determined by the state department of education. Education allocation amounts are not cumulative. Instructional staff whose initial certificate is an occupational specialist certificate shall be treated as BA degree-prepared instructional staff. Credits earned by such occupational specialist instructional staff after initial certification shall be credited toward the education allocation. Additional allocations are:

(a) Effective July 1, 2016, through June 30, 2017, the education allocation shall be:

(i) For instructional staff and pupil service staff holding a professional endorsement and a baccalaureate degree and twenty-four (24) or more credits, eight hundred dollars (\$800) per fiscal year.

(ii) For instructional staff and pupil service staff holding a professional endorsement and a master's degree, one thousand four hundred dollars (\$1,400) per fiscal year.

(b) Effective July 1, 2017, through June 30, 2018, the education allocation shall be:

(i) For instructional staff and pupil service staff holding a professional endorsement and a baccalaureate degree and twenty-four (24) or more credits, one thousand two hundred dollars (\$1,200) per fiscal year.

(ii) For instructional staff and pupil service staff holding a professional endorsement and a master's degree, two thousand one hundred dollars (\$2,100) per fiscal year.

(c) Effective July 1, 2018, through June 30, 2019, the education allocation shall be:

(i) For instructional staff and pupil service staff holding a professional endorsement and a baccalaureate degree and twenty-four (24) or more credits, one thousand six hundred dollars (\$1,600) per fiscal year.

(ii) For instructional staff and pupil service staff holding a professional endorsement and a master's degree, two thousand eight hundred dollars (\$2,800) per fiscal year.

(d) Effective July 1, 2019, through June 30, 2020, the education allocation shall be:

(i) For instructional staff and pupil service staff holding a professional endorsement and a baccalaureate degree and twenty-four (24) or more credits, two thousand dollars (\$2,000) per fiscal year.

(ii) For instructional staff and pupil service staff holding a professional endorsement and a master's degree, three thousand five hundred dollars (\$3,500) per fiscal year.

(67) Effective July 1, 2015, through June 30, 2016, the allocation shall be:

Base Allocation	1	2	3	4	5	6	7	8	9	10
Residency/ Professional	\$32,700	\$33,200	\$33,822							
Professional	\$35,498	\$36,885	\$38,311	\$39,775	\$41,282	\$42,089	\$43,668	\$45,305	\$47,004	\$47,603

(78) Effective July 1, 2016, through June 30, 2017, the allocation shall be:

Base Allocation	1	2	3	4	5	6	7	8	9	10
Residency/ Professional	\$33,400	\$34,250	\$35,117							
Professional	\$37,249	\$38,758	\$39,546	\$41,113	\$41,961	\$43,591	\$44,503	\$46,201	\$47,183	\$48,202

~~(8)(g)~~ (9) Effective July 1, 2017, through June 30, 2018, the allocation shall be:

Base Allocation	1	2	3	4	5	6	7	8	9	10
Residency	\$34,600	\$35,500	\$36,411							
Professional	\$38,999	\$40,630	\$41,155	\$42,825	\$43,391	\$45,102	\$45,711	\$47,467	\$48,122	\$48,802

(910) Effective July 1, 2018, through June 30, 2019, school districts shall receive an allocation for instructional staff and pupil service staff based on the staffs' position on the career ladder.

(a) Instructional staff and pupil service staff in their first year of holding a professional endorsement shall be placed in the first cell of the professional compensation rung.

(b) Instructional staff and pupil service staff previously placed within a cohort shall continue to move one (1) cell on the applicable rung with their cohort unless they have failed to meet the compensation

rung performance criteria for the previous three (3) years. Allocations to districts for instructional staff and pupil service staff who have failed to meet the professional compensation rung performance criteria for the previous three (3) years shall be the same as the previous fiscal year. This also applies to the educational allocation.

(101) Effective July 1, 2018, through June 30, 2019, the allocation shall be:

Base

Allocation	1	2	3	4	5	6	7	8	9	10
Residency	\$35,800	\$36,750	\$37,706							
Professional	\$40,750	\$42,503	\$42,765	\$44,538	\$44,820	\$46,614	\$46,918	\$48,734	\$49,061	\$49,401

(112) Effective July 1, 2019, through June 30, 2020, school districts shall receive an allocation for instructional staff and pupil service staff based on the staffs' position on the career ladder as follows:

(a) Instructional staff and pupil service staff in their first year of holding a professional endorsement shall be placed in the first cell of the professional compensation rung.

(b) Instructional staff and pupil service staff previously placed within a cohort shall continue to move one (1) cell on the applicable rung with their cohort unless they have failed to meet the professional compensation rung performance criteria for three (3) of the previous four (4) years. Allocations to districts for instructional staff and pupil service staff who have failed to meet the professional compensation rung performance criteria for three (3) of the previous four (4) years shall be the same as the previous fiscal year. This also applies to the educational allocation.

(123) Effective July 1, 2019, through June 30, 2020, the allocation shall be:

Base

Allocation	1	2	3	4	5	6	7	8	9	10
Residency	\$37,000	\$38,000	\$39,000							
Professional	\$42,500	\$44,375	\$46,250	\$48,125	\$50,000					

(134) A review of a sample of evaluations completed by administrators shall be conducted annually to verify such evaluations are being conducted with fidelity to the state framework for teaching evaluation, including each evaluation component as outlined in administrative rule and the rating given for each component. The state board of education shall randomly select a sample of administrators throughout the state. A portion of such administrators' instructional staff and pupil service staff employee evaluations shall be independently reviewed. The ratio of instructional staff evaluations to pupil service staff evaluations shall be equal to the ratio of the statewide instructional staff salary allowance to pupil service staff salary allowance. The state board of education with input from the Idaho-approved teacher preparation programs and the state department of education shall identify individuals and a process to conduct the reviews. Administrator certificate holders shall be required to participate in ongoing evaluation training pursuant to section 33-1204, Idaho Code. The state board of education shall report annually the findings of such reviews to the senate education committee, the house of representatives education committee, the state board of education and the deans of Idaho's approved teacher preparation programs. The state board of education shall promulgate rules implementing the provisions of this subsection.

(145) School districts shall submit annually to the state the data necessary to determine whether an instructional staff or pupil service staff member has met the performance criteria for the applicable compensation rung and implementation year. The department of education shall calculate annually whether instructional staff and pupil service staff have met the compensation rung performance criteria based on the data submitted during the previous years that are applicable to the performance criteria for that year. Individually identifiable performance evaluation ratings submitted to the state remain part of the employee's personnel record and are exempt from public disclosure pursuant to section 74-106, Idaho Code.

SECTION 5. That Section 33-1004B, Idaho Code, as amended by Section 2, Chapter 352, Laws of 2016, be, and the same is hereby amended to read as follows:

33-1004B. CAREER LADDER. School districts shall receive an allocation for instructional staff and pupil service staff based on their staffs' position on the career ladder as follows:

(1) Instructional staff and pupil service staff who are in their first year of holding a certificate shall be placed in the first cell of the residency compensation rung and shall move one (1) cell on the residency compensation rung for each year they hold a certificate thereafter for up to three (3) years, at which point they will remain in the third cell of the residency rung until they earn a professional endorsement.

(2) Instructional staff and pupil service staff in their first year of holding a professional endorsement shall be placed in the first cell of the professional compensation rung.

(3) Instructional staff and pupil service staff on the professional compensation rung with four (4) years of experience shall move one (1) cell on the professional compensation rung unless they have failed to meet the professional compensation rung performance criteria for three (3) of the previous four (4) years. Instructional staff and pupil service staff on the professional compensation rung who meet the performance criteria for three (3) of the previous five (5) years, one (1) of which must be during the fourth or fifth year, shall move one (1) cell. Allocations for instructional staff and pupil service staff who do not meet the professional compensation rung performance criteria for three (3) of the previous five (5) years, one (1) of which must be during the fourth or fifth year, shall remain at the previous fiscal year allocation level. This also applies to the educational allocation.

(4) In addition to the allocation amount specified for the applicable cell on the career ladder, school districts shall receive an additional allocation amount for career technical education instructional staff holding an occupational specialist certificate in the area for which they are teaching in the amount of three thousand dollars (\$3,000).

(5) In addition to the allocation amount specified for the applicable cell on the career ladder, school districts shall receive an additional allocation amount for instructional staff and pupil service staff holding a professional endorsement who have acquired additional education and meet the professional compensation rung performance criteria. In determining the additional education allocation amount, only transcribed credits and degrees on file with the teacher certification office of the state department of education, earned at an institution of higher education accredited by a body recognized by the state board of education or credits earned through an internship or work experience approved by the state board of education, shall be allowed. All credits and degrees earned must be in a relevant pedagogy or content area as determined by the state department of education. Additional education allocation amounts are not cumulative. Instructional staff whose initial certificate is an occupational specialist

certificate shall be treated as BA degree-prepared instructional staff. Credits earned by such occupational specialist instructional staff after initial certification shall be credited toward the education allocation. Additional allocations are:

(a) For instructional staff and pupil service staff holding a professional endorsement, a baccalaureate degree and twenty-four (24) or more credits, two thousand dollars (\$2,000) per fiscal year.

(b) For instructional staff and pupil service staff holding a professional endorsement and a master's degree, three thousand five hundred dollars (\$3,500) per fiscal year.

(c) Effective July 1, 2020, the allocation shall be:

Base

Allocation	1	2	3	4	5
Residency	\$37,000	\$38,000	\$39,000		
Professional	\$42,500	\$44,375	\$46,250	\$48,125	\$50,000

(6) A review of a sample of evaluations completed by administrators shall be conducted annually to verify such evaluations are being conducted with fidelity to the state framework for teaching evaluation, including each evaluation component as outlined in administrative rule and the rating given for each component. The state board of education shall randomly select a sample of administrators throughout the state. A portion of such administrators' instructional staff and pupil service staff employee evaluations shall be independently reviewed. The ratio of instructional staff evaluations to pupil service staff evaluations shall be equal to the ratio of the statewide instructional staff salary allowance to pupil service staff salary allowance. The state board of education with input from the Idaho-approved teacher preparation programs and the state department of education shall identify individuals and a process to conduct the reviews. Administrator certificate holders shall be required to participate in ongoing evaluation training pursuant to section 33-1204, Idaho Code. The state board of education shall report annually the findings of such reviews to the senate education committee, the house of representatives education committee, the state board of education and the deans of Idaho's approved teacher preparation programs. The state board of education shall promulgate rules implementing the provisions of this subsection.

(67) School districts shall submit annually to the state the data necessary to determine if an instructional staff or pupil service staff member has met the performance criteria for movement on the applicable compensation rung. The department of education shall calculate whether or not instructional staff and pupil service staff have met the compensation rung performance criteria based on the data submitted during the previous five (5) years. Individually identifiable performance evaluation ratings submitted to the state remain part of the employee's personnel record and are exempt from public disclosure pursuant to section 74-106, Idaho Code.

SECTION 6. That Section 33-1513, Idaho Code, be, and the same is hereby amended to read as follows:

33-1513. PUPIL TRANSPORTATION SUPPORT PROGRAM FUND. (1) In order to promote school transportation safety and awareness in Idaho and to help defray costs associated with Idaho's oversight of the statewide pupil transportation support program, there is hereby created in the state treasury the "Ppupil Transportation Support Program Fund" to which shall be credited:

(a) ~~Moneys as provided by special license plate program fees pursuant to section 49-419D, Idaho Code; and~~

~~(b) All other moneys as may be provided by law; and~~

(eb) Interest earned on the investment of idle moneys in the fund, which shall be paid to the pupil transportation support program fund.

(2) Moneys in the fund shall be continuously appropriated to the department of education, and any moneys remaining in the fund at the end of each fiscal year shall not be appropriated to any other fund.

(3) Moneys in the fund shall only be used only for educational programs promoting school transportation safety and awareness; provided however, the department of education is authorized to retain a portion of the moneys, not to exceed ten percent (10%) of annual revenues, to help defray costs associated with the implementation, administration and oversight of the statewide pupil transportation support program.

SECTION 7. That Section 39-105, Idaho Code, be, and the same is hereby amended to read as follows:

39-105. POWERS AND DUTIES OF THE DIRECTOR. The director shall have the following powers and duties:

(1) All of the rights, powers and duties regarding environmental protection functions vested in the department of health and welfare, and its director, administered by the division of environmental quality, including, but not limited to, those provided by chapters 1, 4, 30, 36, 44, 58, ~~62, 64,~~ 65, 66, 70, 71, 72 and 74, title 39, Idaho Code. The director shall have all such powers and duties as described in this section as may have been or could have been exercised by his predecessors in law, and shall be the successor in law to all contractual obligations entered into by predecessors in law. All hearings of the director shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(2) The director shall, pursuant and subject to the provisions of the Idaho Code, and the provisions of this act, formulate and recommend to the board, rules as may be necessary to deal with problems related to water pollution, air pollution, solid waste disposal, and licensure and certification requirements pertinent thereto, which shall, upon adoption by the board, have the force of the law relating to any purpose which may be necessary and feasible for enforcing the provisions of this act, including, but not limited to, the prevention, control or abatement of environmental pollution or degradation including radionuclides and risks to public health related to any of the powers and duties described in this section. Any such rule may be of general application throughout the state or may be limited as to times, places, circumstances or conditions in order to make due allowance for variations therein.

(3) The director, under the rules adopted by the board, shall have the general supervision of the promotion and protection of the environment of this state. The powers and duties of the director shall include, but not be limited to, the following:

(a) The issuance of licenses and permits as prescribed by law and by the rules of the board promulgated hereunder. For each air quality operating permit issued under title V of the federal clean air act and its implementing regulations, the director shall, consistent with the federal clean air act and its implementing regulations, expressly include a provision stating that compliance with the conditions of the permit shall be deemed compliance with the applicable requirements of the federal clean air act and the title V implementing regulations. The director may develop and issue general permits covering numerous similar sources, as authorized by 40 CFR 70.6(d) l as may be amended, and as appropriate.

(b) The enforcement of rules relating to public water supplies and to administer the drinking water loan fund pursuant to chapter 76, title 39, Idaho Code, including making loans to eligible public drinking

water systems as defined in the federal safe drinking water act, as amended, and to comply with all requirements of the act, 42 U.S.C. 300f, et seq. and regulations promulgated pursuant to the act. This includes, but is not limited to: the development of and implementation of a capacity development strategy to ensure public drinking water systems have the technical, managerial and financial capability to comply with the national primary drinking water regulations; and the enhancement of protection of source waters for public drinking water systems.

(c) The establishment of liaison with other governmental departments, agencies and boards in order to effectively assist other governmental entities with the planning for the control of or abatement of environmental pollution. All of the rules adopted by the board hereunder shall apply to state institutions.

(d) The supervision and administration of a system to safeguard air quality and for limiting and controlling the emission of air contaminants.

(e) The supervision and administration of a system to safeguard the quality of the waters of this state including, but not limited to, the enforcement of rules relating to the discharge of effluent into the waters of this state and the storage, handling and transportation of solids, liquids, and gases which that may cause or contribute to water pollution. For purposes of complying with the clean water act, the director may provide an exemption from additional reductions for those nonpoint sources that meet the applicable reductions set forth in an approved TMDL as defined in chapter 36, title 39, Idaho Code.

(f) The supervision and administration of administrative units whose responsibility shall be to assist and encourage counties, cities, other governmental units, and industries in the control of and/or abatement of environmental pollution.

(g) The administration of solid waste disposal site and design review in accordance with the provisions of chapter 74, title 39, Idaho Code, and chapter 4, title 39, Idaho Code, and in particular as follows:

(i) The issuance of a solid waste disposal site certificate in the manner provided in chapter 74, title 39, Idaho Code.

(ii) Provide review and approval regarding the design of solid waste disposal facilities and ground water monitoring systems and approval of all applications for flexible standards as provided in 40 CFR 258, in accordance with the provisions of chapter 74, title 39, Idaho Code.

(iii) Cooperating and coordinating with operational monitoring of solid waste disposal sites by district health departments pursuant to authority established in chapters 4 and 74, title 39, Idaho Code.

(iv) The authority granted to the director pursuant to provisions of this subsection shall be effective upon enactment of chapter 74, title 39, Idaho Code, by the legislature.

(v) The authority to develop and propose rules as necessary to supplement details of compliance with the solid waste facilities act and applicable federal regulations, provided that such regulations shall not conflict with the provisions of this act nor shall such regulations be more strict than the requirements established in federal law or in the solid waste facilities act.

(h) The establishment, administration and operation of:

(i) A network of environmental monitoring stations, independent of the United States department of energy, within and around the facilities of the Idaho national laboratory to provide authoritative auditing and analysis of emissions, discharges or releases of

pollutants to the environment, including the air, water and soil from such facilities; and

(ii) Programs within the department to utilize the data obtained from such monitoring, and any other relevant data, in the enforcement of applicable agreements, statutes and rules pertaining to such facilities and programs to review, analyze and participate in remedial decisions and other proposed actions and projects to ensure the protection of public health and the environment.

The director shall also monitor the implementation of agreements between the United States and the state of Idaho related to the operation and environmental protection obligations of the Idaho national laboratory and provide periodic information to the governor, the attorney general, the legislature and the people of Idaho concerning compliance with such agreements and obligations. The director shall have the power to enter into agreements with the United States department of energy in order to carry out the duties and authorities provided in this subsection.

(i) The enforcement of all laws, rules, regulations, codes and standards relating to environmental protection and health.

(j) The enhancement and protection of source waters of the state pursuant to rules of the board.

(4) The director, when so designated by the governor, shall have the power to apply for, receive on behalf of the state, and utilize any federal aid, grants, gifts, gratuities, or moneys made available through the federal government, including, but not limited to, the federal water pollution control act, for use in or by the state of Idaho in relation to health and environmental protection.

(5) (a) The director shall have the power to enter into and make contracts and agreements with any public agencies or municipal corporation for facilities, land, and equipment when such use will have a beneficial or recreational effect or be in the best interest in carrying out the duties imposed upon the department.

(b) The director shall also have the power to enter into contracts for the expenditure of state matching funds for local purposes. This subsection will constitute the authority for public agencies or municipal corporations to enter into such contracts and expend money for the purposes delineated in such contracts.

(6) The director is authorized to adopt an official seal to be used on appropriate occasions, in connection with the functions of the department or the board, and such seal shall be judicially noticed. Copies of any books, records, papers and other documents in the department shall be admitted in evidence equally with the originals thereof when authenticated under such seal.

SECTION 8. That Section 39-113, Idaho Code, be, and the same is hereby amended to read as follows:

39-113. TRANSFER OF EMPLOYEES. All employees of the division of environmental quality and the INEEL oversight program of the department of health and welfare are transferred to the department of environmental quality. Such transfer shall in no manner affect the rights or privileges of any transferred employee under the public employee retirement system (chapter 13, title 59, Idaho Code), the group insurance plan (chapter 12 57, title 59 67, Idaho Code), or personnel system (chapter 53, title 67, Idaho Code). Additionally, when the department of health and welfare is used in terms of environmental protection, it shall mean the department of environmental quality.

SECTION 9. That Section 39-909, Idaho Code, be, and the same is hereby amended to read as follows:

39-909. TESTS FOR PHENYLKETONURIA AND PREVENTABLE DISEASES IN NEWBORN INFANTS. It shall be the duty of the administrative officer or other person in charge of each hospital or other institution caring for newborn infants and the person responsible for the registration of the birth of such infants under section 39-2565, Idaho Code, to cause to have administered to every newborn infant in its or his care a test for phenylketonuria and such other tests for preventable diseases as prescribed by the state board of health and welfare. The person administering such tests shall make such reports of the results thereof as required by the state board of health and welfare.

SECTION 10. That Section 39-6004, Idaho Code, be, and the same is hereby amended to read as follows:

39-6004. CONSIDERATION IN AWARD OF CONTRACTS. In awarding contracts pursuant to section 39-5502 39-6002, Idaho Code, consideration shall be given to factors such as need, coordination with or enhancement of existing services, and evidence of community support or volunteers for the program.

SECTION 11. That Section 41-3434, Idaho Code, be, and the same is hereby amended to read as follows:

41-3434. OTHER PROVISIONS APPLICABLE. In addition to those contained or referred to heretofore in this chapter, the following chapters and provisions of title 41, Idaho Code, shall also apply with respect to service corporations to the extent applicable and not in conflict with the express provisions of this chapter and the reasonable implications of such express provisions, and, for the purposes of such application, such corporations shall be deemed to be mutual "insurers":

- (1) Chapter 1, Idaho Code (scope of insurance code);
- (2) Chapter 2, Idaho Code (the ~~director~~ department of insurance);
- (3) Section 41-308(2), Idaho Code (general eligibility for certificate of authority -- competence, affiliations of management);
- (4) Sections 41-345 through 41-347, Idaho Code (disclosure of material transactions);
- (5) Section 41-601, Idaho Code ("assets" defined);
- (6) Section 41-603, Idaho Code (assets not allowed);
- (7) Section 41-604, Idaho Code (disallowance of "wash" transactions);
- (8) Section 41-613, Idaho Code (valuation of bonds);
- (9) Section 41-731, Idaho Code (prohibited investments and investment underwriting);
- (10) Chapter 13, Idaho Code (trade practices and frauds);
- (11) Section 41-2840, Idaho Code (vouchers for expenditures);
- (12) Section 41-2841, Idaho Code (borrowed surplus);
- (13) Sections 41-2857, Idaho Code (mergers and consolidations of mutual insurers), 41-2858, Idaho Code (bulk reinsurance, mutual insurers), and 41-2859, Idaho Code (mutual member's share of assets on liquidation);
- (14) Chapter 33, Idaho Code (supervision, rehabilitation and liquidation);
- (15) Sections 799 ~~to~~ through 809 of, chapter 330 of ~~Session~~ Laws of 1961 (transitory provisions);
- (16) Section 41-2106(3), Idaho Code (health history application for disability insurance);
- (17) Section 41-2141, Idaho Code (coordination of benefits -- coordination with social security benefits);
- (18) Section 41-1839, Idaho Code (attorney's fees);
- (19) Chapter 46, Idaho Code (long-term care insurance act);

- (20) Section 41-1844, Idaho Code (prescription drug benefit restrictions prohibited);
- (21) Section 41-2216, Idaho Code (coordination of benefits -- coordination with social security benefits);
- (22) Chapter 54, Idaho Code (risk-based capital);
- (23) Chapter 64, Idaho Code (corporate governance); and
- (234) Chapter 63, Idaho Code (own risk and solvency assessment).

SECTION 12. That Section 47-316, Idaho Code, be, and the same is hereby amended to read as follows:

47-316. PERMIT TO DRILL OR TREAT A WELL -- FEES. (1) It shall be unlawful to commence operations for the drilling or treating of a well for oil and gas without first giving notice to the commission of intention to drill or treat and without first obtaining a permit from the commission under such rules and regulations as may be reasonably prescribed by the commission and by paying to the commission a filing and service fee as provided by this section.

(a) Any request for a permit or authorization as set forth in subsection (3) (a), (b), (c), (d), (e), (f), (g), (m), (n) or (o) of this section shall be made by application to the department of lands, and processed as provided in this section.

(b) The department shall notify the director of the department of water resources regarding applications for permits to drill or treat a well. The director of water resources shall have ten (10) business days from the date of receipt of such notification from the department of lands to recommend conditions he believes necessary to protect freshwater supplies.

(c) Applications submitted under this section, except those listed in subsection (3) (c) and (g) of this section, shall be posted on the department of lands' website for ten (10) business days for a written comment period.

(d) The department of lands shall approve or deny applications in subsection (3) (a), (b), (c), (d), (f), (g), (m), (n) and (o) of this section in a timely and efficient manner. This time frame does not apply to permits submitted with an application processed under section 47-3248, Idaho Code.

(e) The department's decision made under this section may be appealed to the commission by the applicant pursuant to the procedure in section 47-328(4) through (6), Idaho Code.

(2) Upon issuance of any permit to drill or treat a well, a copy thereof, including any limitations, conditions, controls, rules or regulations attached thereto for the protection of freshwater supplies as required in section 47-315, Idaho Code, shall be forwarded to the director of the department of water resources.

(3) The department shall collect the following fees, which shall be remitted to the state treasurer for deposit in the oil and gas conservation fund and shall be used exclusively to pay the costs and expenses incurred in connection with the administration and enforcement of this chapter:

- (a) Application for a permit to drill a well \$2,000
- (b) Application to deepen a well 500
- (c) Application to plug and abandon a well, if not completed within one (1) year from issuance of permit to drill a well 500
- (d) Application to treat a well, if separate from an application for a permit to drill a well 1,000
- (e) Application to construct a pit, if separate from an application for a permit to drill a well 1,500
- (f) Application to directionally drill a well, if separate from an application for a permit to drill a well 1,000

- (g) Application for a recompletion, modified blow out prevention standards, using a vacuum for oil or gas recovery, removing casing, or multiple zone completion, if separate from an application for a permit to drill or plug and abandon a well1,000
- (h) Application for an exceptional well location, if separate from an application for a permit to drill a well1,300
- (i) Application to change the size, shape or location of a spacing unit1,300
- (j) Application to establish or amend a fieldwide spacing order ..1,300
- (k) Application for an integration order1,300
- (l) Application for a unitization order1,300
- (m) Application for a seismic operations permit covering less than twelve (12) miles of a 2-D survey800
- (n) Application for a seismic operations permit covering between twelve (12) miles and twenty-four (24) miles of a 2-D survey, or up to seventy-two (72) square miles of a 3-D survey2,000
- (o) Application for a seismic operations permit covering more than twenty-four (24) miles of a 2-D survey, or more than seventy-two (72) square miles of a 3-D survey2,500

SECTION 13. That Section 47-328, Idaho Code, be, and the same is hereby amended to read as follows:

47-328. RULES FOR COMMISSION -- ADMINISTRATIVE PROCEDURES. (1) The commission shall have authority to hear rulemaking proceedings, complaints filed with it pursuant to this chapter and appeals from the oil and gas administrator's decision on an application filed pursuant to this chapter, and any other matter the commission decides should be heard by the commission. The commission may act on its own motion. The commission may prescribe rules governing the procedure before it, subject to the provisions of the administrative procedure act, chapter 52, title 67, Idaho Code. Provided however, that no rulemaking except for that done under section 67-5226, Idaho Code, may be conducted for twelve (12) months beginning on July 1, 2017.

(2) In all cases where a complaint is made by the commission or any person that any provision of this act or any rule or order of the commission is being violated, the commission shall serve notice of any hearing to be held on such application or complaint to the interested persons by certified mail, return receipt requested, or in the same manner as is provided in the rules of civil procedure for the service of summons in civil actions. Where the interested person is unknown or cannot be located, the commission shall serve notice by publishing at least one (1) notice of the hearing to such person in a newspaper of general circulation in the county where the affected tract is located. Such notice must be sent, delivered or published, as appropriate, at least five (5) business days before the date of the hearing.

(3) Except as provided in section 47-316(1) (a), Idaho Code, and subsection (2) of this section, any request for an order related to oil and gas activities within the commission's jurisdiction, other than a civil penalty proceeding pursuant to section 47-329, Idaho Code, or other enforcement action by the department of lands or the commission, shall be made by application to the department of lands and processed as provided in this section.

(a) The department shall notify the applicant within five (5) business days of receipt of an application if additional information is required for the department to evaluate the application.

(b) For applications involving an order regarding unit operations or integration of a drilling unit, the applicant shall send a copy of the application and supporting documents to all known and located uncommitted owners, to all working interest owners within the unit, and to the respective city or county where the proposed unit is located. The mailing shall be sent by certified mail within seven (7) calendar

days of filing the application and include notice of the hearing date on which the oil and gas administrator will consider the application. ~~The application may be.~~ For any uncommitted owners and working interest owners who cannot be located, an applicant shall publish notice of any application for an order, notice of hearing and response deadline once in a newspaper of general circulation in the county in which the affected property is located and request the department publish notice on its website within seven (7) calendar days of filing of the application. Only an uncommitted owner in the affected unit may file an objection or other response to the application, and the uncommitted owner shall file at least fourteen (14) calendar days before the hearing date provided in the notice.

(c) For applications not involving paragraph (b) of this subsection, the department and any uncommitted owner within the area defined in the application may file objections or other responses to the application and shall file at least fourteen (14) calendar days before the hearing date provided in the notice.

(d) ~~The director~~ oil and gas administrator shall hear the application and make a decision on the application's merits. ~~The director~~ oil and gas administrator shall set regular hearing dates. Applications shall be filed at least forty-five (45) calendar days before a desired hearing date. Untimely applications shall be continued until the next hearing. ~~The director~~ oil and gas administrator may for good cause continue any hearing. ~~The director~~ oil and gas administrator may appoint a hearing officer, who shall have the power and authority to conduct hearings. Discovery is not permitted. The department may appear and testify at the hearing. When applications are uncontested, the applicant may request, and the ~~director~~ oil and gas administrator may allow, approval without a hearing based on review of the merits of a verified application and the supporting exhibits.

(e) The oil and gas administrator shall issue a written decision on any such application within thirty (30) calendar days of the hearing. ~~The director's~~ oil and gas administrator's decision shall not be subject to any motion for reconsideration or further review, except for appeal to the commission provided in subsection (d4) of this section.

(4) The oil and gas administrator's decision on an application or a request for an order may be appealed to the commission by the applicant or any owner who filed an objection or other response to the application within the time required. An appeal must be filed with the oil and gas administrator within fourteen (14) calendar days of the date of issuance of the oil and gas administrator's written decision. The date of issuance shall be three (3) calendar days after the oil and gas administrator deposits the decision in the U.S. mail, or the date on which he remits a decision electronically. Such appeal shall include the reasons and authority for the appeal and shall identify any facts in the record supporting the appeal. Any person appealing shall serve a copy of the appeal materials on any other person who participated in the proceedings, by certified mail, or by personal service. Any person who participated in the proceeding may file a response to the appeal within five (5) business days of service of a copy of the appeal materials. The appellant shall provide the oil and gas administrator with proof of service of the appeal materials on other persons as required in this section. The commission shall make a decision based on the record as set forth in the written submittals of only the appellant and any other participating qualified person, the oil and gas administrator's decision, and any oral argument taken by the commission at an appeal hearing.

(5) Appeals to the commission shall be heard at the next regularly scheduled commission hearing, or at a special meeting of the commission if determined by the commission. In no case will a hearing be later than thirty (30) calendar days after the filing of an appeal. The commission may take

argument from, but not new testimony of, the appellant and other qualified participating persons at the hearing. The commission shall make a decision on the appeal at the hearing and issue a written order within five (5) business days of the hearing. The prevailing party shall draft a proposed written order and submit it within two (2) business days. The final order of the commission shall not be subject to any motion for reconsideration.

(6) If no appeal is filed with the commission within the required time, the decision of the oil and gas administrator shall become the final order.

(7) Judicial review of actions taken by the commission shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(8) For an application or request for an order submitted under subsection (e3) of this section, only a person qualified under subsection (d4) of this section who has completed the appeal procedures set forth in this section shall be considered to have exhausted administrative remedies as required in section 67-5271, Idaho Code.

(9) Each order shall include a reasoned statement in support of the decision, including a concise statement of facts supporting any findings, a statement of available procedures and time limits for appeals. Findings must be based exclusively on materials in the record. The applicant and any participating qualified person shall be served with a copy of the order. The order shall include or be accompanied by a certificate of service.

(j10) Every application shall be signed by the applicant or his representative, and his address shall be stated thereon. The signature of the applicant or his representative constitutes a certificate by him that he has read the application and that to the best of his knowledge, information and belief there is good ground to support the same. Each application shall be of such form and content and accompanied by the number of copies required by rule of the commission. Each application shall be accompanied by a fee as established in statute or rule.

SECTION 14. That Section 47-330, Idaho Code, be, and the same is hereby amended to read as follows:

47-330. OIL AND GAS CONSERVATION FUND CREATED -- TAX. (1) For the purposes of paying the expenses of administration of this act and for the privilege of extracting oil and gas in this state, there is hereby levied and imposed on all oil and gas produced, saved and sold or transported from the premises in Idaho where produced a tax of two and one-half percent (2.5%) of the gross income received by the producer of the oil and gas produced. "Gross income" shall mean the amount realized by the producer for sale of the oil and gas, whether the sale occurs at the wellhead or after transportation of the product, without deduction for marketing, transportation, manufacturing, and processing costs borne by the producer. Where the parties to the sale are related parties and the sales price is lower than the price for which that oil and gas could otherwise have been sold to a ready, willing, and able buyer and where the taxpayer was legally able to sell the oil and gas to such a buyer, gross income shall be determined by reference to comparable arms-length sales of like kind, quality, and quantity in the same field or area. For purposes of this subsection, "related parties" shall be as defined in section 267 of the Internal Revenue Code, as defined, in section 63-3004, Idaho Code. This tax is in addition to all other taxes provided by law. It shall be the duty of the state tax commission to enforce collection of this tax and to make such rules as may be necessary, pursuant to the provisions of chapter 52, title 67, Idaho Code. All money so collected shall be remitted to the state treasurer for deposit in the oil and gas conservation fund, which fund is hereby created in the office of the state treasurer of the state of Idaho.

(2) The persons owning an interest, working interest, royalty interest, payments out of production, or any other interest in the oil and gas, or

in the proceeds thereof, shall be liable for such tax in proportion to their ownership at the time of production. The tax so assessed and fixed shall be payable monthly, and the sum so due shall be remitted to the state tax commission, on or before the twentieth of the month following the month in which the tax accrued, by the producer on behalf of himself and all other interested persons. The person remitting the tax, as herein provided, is hereby empowered and required to deduct from any amounts due the persons owning an interest in the oil and gas, or in the proceeds thereof, at the time of production a proportionate amount of such tax before making payment to such persons.

(3) The tax imposed by this section shall apply to all lands in the state of Idaho, anything in this act to the contrary notwithstanding; provided however, there shall be exempted from the tax hereinabove levied and assessed the following, to wit:

(a) The interest of the United States of America and the interest of the state of Idaho and the political subdivisions thereof in any oil and gas or in the proceeds thereof.

(b) The interest of any Indian or Indian tribe in any oil and gas or the proceeds thereof, produced from lands subject to the supervision of the United States.

(c) Oil and gas used in producing operations or for repressuring or recycling purposes.

(4) To the extent that such sections are not in conflict with the provisions of this act, the deficiency in tax and notice of deficiency as well as the collection and enforcement procedures provided by the Idaho income tax act, sections 63-3038, 63-3039, 63-3040, 63-3042 through 63-3065A, 63-3068, 63-3071 and 63-3075 through 63-3078, Idaho Code, shall apply and be available to the state tax commission for enforcement of the provisions of this act and the assessment and collection of any amounts due. Said sections shall for this purpose be considered a part of this act and wherever liens or any other proceedings are defined as income tax liens or proceedings they shall, when applied in enforcement or collection pursuant to this act, be described as an oil and gas tax lien or proceeding.

The state tax commission may be made a party defendant in an action at law or in equity by any person aggrieved by the unlawful seizure or sale of his property, or in any suit for refund or to recover an overpayment, but only the state of Idaho shall be responsible for any final judgment secured against the state tax commission, and said judgment or any other amount erroneously or illegally collected shall be paid or satisfied out of the state refund account created by section 63-3067, Idaho Code.

(5) All moneys collected under this chapter shall be distributed by the state tax commission as follows:

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

(b) For the balance of the proceeds, forty percent (40%) shall be distributed by the end of the month following each monthly due date by the state tax commission into any oil and gas revenue share account as follows:

(i) Forty-four percent (44%) is hereby appropriated and shall be paid to the current expense fund of the county from which the oil and gas was produced, to be used to mitigate the impacts associated with oil and gas production, development and transportation in that county;

(ii) Twenty-eight percent (28%) is hereby appropriated and shall be paid to the cities within the county from which the oil and gas was produced. Such funds shall be distributed to each city based upon the proportion that the city's population bears to the total population of all of the cities within the county; and

(iii) Twenty-eight percent (28%) is hereby appropriated and shall be paid to the public school income fund †.

(c) The remainder of the moneys deposited into the oil and gas conservation fund, sixty percent (60%) of the proceeds after refunds, may be expended pursuant to legislative appropriation and shall be used for defraying the expenses of the oil and gas conservation commission in carrying out the provisions of this act. At the beginning of each fiscal year, those moneys in the oil and gas conservation fund, after applicable refunds and distribution as noted in paragraphs (a) and (b) of this subsection, that exceed two hundred percent (200%) of the current year's appropriations for the oil and gas conservation commission shall be transferred to the general fund. The oil and gas conservation commission shall audit all bills for salaries and expenses incurred in the enforcement of this act that may be payable from the oil and gas conservation fund that shall be audited, allowed and paid as to the claims against the state.

SECTION 15. That Section 47-331, Idaho Code, as enacted by Section 1, Chapter 116, Laws of 2017, be, and the same is hereby amended to read as follows:

47-331~~5~~. PRODUCERS -- MONTHLY STATEMENTS -- IDAHO STATE TAX COMMISSION. (1) Every producer engaged in the production of oil or gas from any well or wells in the state shall each month file with the Idaho state tax commission, on forms prescribed by the Idaho state tax commission, a statement containing the information required by subsection (2) of this section relating to the oil or gas produced, saved and sold or transported from the premises in Idaho where produced.

(2) The statement required in subsection (1) of this section shall include:

(a) The name, description and location of:

(i) Every well or wells; and

(ii) Every field in which the well or wells are located; and

(b) Any other reasonable and necessary information required by the Idaho state tax commission.

(3) The statements required to be filed with the Idaho state tax commission shall be signed and sworn to by the producer or a designee.

(4) The Idaho state tax commission is authorized to conduct audits, relating to producer compliance with the provisions of this section, at least every three (3) years.

SECTION 16. That Section 47-331, Idaho Code, as enacted by Section 1, Chapter 68, Laws of 2017, be, and the same is hereby amended to read as follows:

47-331~~6~~. INTERSTATE COMPACT FOR CONSERVATION OF OIL AND GAS RATIFIED. (1) The state of Idaho does hereby ratify, approve, adopt and confirm the interstate compact to conserve oil and gas heretofore executed in the city of Dallas, Texas, on February 16, 1935, and is now deposited with the department of state of the United States and which has been extended with the consent of congress to September 1, 1947, which said compact is substantially as follows:

INTERSTATE COMPACT TO CONSERVE OIL AND GAS

ARTICLE I

This agreement may become effective within any compacting state at any time as prescribed by that state, and shall become effective within those

states ratifying it whenever any three of the states of Texas, Oklahoma, California, Kansas and New Mexico have ratified and congress has given its consent. Any oil-producing state may become a party hereto as hereinafter provided.

ARTICLE II

The purpose of this compact is to conserve oil and gas by the prevention of physical waste thereof from any cause.

ARTICLE III

Each state bound hereby agrees that within a reasonable time it will enact laws, or if the laws have been enacted, then it agrees to continue the same in force, to accomplish within reasonable limits the prevention of:

- (a) The operation of any oil well with an inefficient gas-oil ratio.
- (b) The drowning with water of any stratum capable of producing oil or gas, or both oil and gas, in paying quantities.
- (c) The avoidable escape into the open air or the wasteful burning of gas from a natural gas well.
- (d) The creation of unnecessary fire hazards.
- (e) The drilling, equipping, locating, spacing or operating of a well or wells so as to bring about physical waste of oil or gas or loss in the ultimate recovery thereof.
- (f) The inefficient, excessive or improper use of the reservoir energy in producing any well.

The enumeration of the foregoing subjects shall not limit the scope of the authority of any state.

ARTICLE IV

Each state bound hereby agrees that it will, within a reasonable time, enact statutes, or if such statutes have been enacted then that it will continue the same in force, providing in effect that oil produced in violation of its valid oil and/or gas conservation statutes or any valid rule, order or regulation promulgated thereunder, shall be denied access to commerce; and providing for stringent penalties for the waste of either oil or gas.

ARTICLE V

It is not the purpose of this compact to authorize the states joining herein to limit the production of oil or gas for the purpose of stabilizing or fixing the price thereof, or create or perpetuate monopoly, or to promote regimentation, but is limited to the purpose of conserving oil and gas and preventing the avoidable waste thereof within reasonable limitations.

ARTICLE VI

Each state joining herein shall appoint one representative to a commission hereby constituted and designated as "The Interstate Oil Compact Commission," the duty of which said commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances, and conditions as may be disclosed for bringing about conservation and the prevention of physical waste of oil and gas, and at such intervals as said commission deems beneficial it shall report its findings and recommendations to the several states for adoption or rejection.

The commission shall have the power to recommend the coordination of the exercise of the police powers of the several states within their several ju-

risdictions to promote the maximum ultimate recovery from the petroleum reserves of said states, and to recommend measures for the maximum ultimate recovery of oil and gas. Said commission shall organize and adopt suitable rules and regulations for the conduct of its business.

No action shall be taken by the commission except: (1) by the affirmative votes of the majority of the whole number of the compacting states represented at any meeting, and (2) by a concurring vote of a majority in interest of the compacting states at said meeting, such interest to be determined as follows: such vote of each state shall be in the decimal proportion fixed by the ratio of its daily average production during the preceding calendar half-year to the daily average production of the compacting states during said period.

ARTICLE VII

No state joining herein shall become financially obligated to any other state, nor shall the breach of the terms hereof by any state subject such state to financial responsibility to the other states joining herein.

ARTICLE VIII

This compact shall continue in effect until congress withdraws its consent. But any state joining herein may, upon sixty (60) days notice, withdraw herefrom.

The representatives of the signatory states have signed this agreement in a single original which shall be deposited in the archives of the department of state of the United States, and a duly certified copy shall be forwarded to the governor of each of the signatory states.

This compact shall become effective when ratified and approved as provided in article I of this compact. Any oil-producing state may become a party hereto by affixing its signature to a counterpart to be similarly deposited, certified, and ratified.

(2) Notice of approval of said compact shall be given by the governor of Idaho to the interstate oil and gas compact commission (IOGCC) and to the department of state of the United States.

(3) That the governor of the state of Idaho be and hereby is authorized and empowered, for and on behalf of the state of Idaho, to determine when and if it shall be for the best interests of the state of Idaho to withdraw from said compact, upon sixty (60) days' notice, as provided by terms thereof, and in the event he shall determine that the state should withdraw from said compact, he shall have full power and authority to give necessary notice and take any and all other steps necessary to effect the withdrawal of the state of Idaho from said compact.

(4) The governor of the state of Idaho shall appoint one (1) representative of the state of Idaho to the IOGCC, whose duty and authority on behalf of the state of Idaho shall be as provided in said compact.

SECTION 17. That Section 50-703, Idaho Code, be, and the same is hereby amended to read as follows:

50-703. CHANGE IN NUMBER OF COUNCILMEN. A. (1) Any city may change to the greater or lesser number of councilmen after an election instituted by resolution of the council or by petition as provided for initiative in ~~sections 50-502 through 50-517~~ chapter 18, title 34, Idaho Code, ~~such election to be held not less than sixty (60) days before any general city election.~~ When the proposition submitted to the electors shall receive a favorable vote, officials shall be elected at the succeeding general city election, provided however, that should such election be conducted in a

year when no general city election is to be held, such new positions shall be filled by appointment within thirty (30) days.

(a) When the number of councilmen to be elected is to be reduced from six (6) to four (4), there shall be elected one (1) councilman, to serve a term of four (4) years. At the next succeeding general city election, there shall be elected two (2) councilmen, each to serve a term of four (4) years, and one (1) councilman to serve a term of two (2) years.

(b) When the number of councilmen to be elected is to be increased from four (4) to six (6), there shall be elected three (3) councilmen, each to serve a term of four (4) years, and one (1) councilman to serve a term of two (2) years.

~~B.~~ (2) Any city operating under the city manager form of government may change to the greater or lesser number of councilmen after an election instituted under subsection (A1).

(a) When the number of councilmen to be elected is to be reduced from seven (7) to five (5):

~~1.~~ (i) If there are four (4) councilmen up for election at the next general city election, there shall be elected two (2) councilmen, each to serve a term of four (4) years.

~~2.~~ (ii) If there are three (3) councilmen up for election at the next general city election, there shall be elected one (1) councilman, to serve a term of four (4) years. At the next succeeding general city election, there shall be elected three (3) councilmen, each to serve a term of four (4) years, and one (1) councilman, to serve a term of two (2) years.

(b) When the number of councilmen to be elected is to be increased from five (5) to seven (7):

~~1.~~ (i) If there are two (2) councilmen up for election at the next general city election, there shall be elected four (4) councilmen, each to serve a term of four (4) years.

~~2.~~ (ii) If there are three (3) councilmen up for election at the next general city election, there shall be elected four (4) councilmen, each to serve a term of four (4) years, and one (1) councilman to serve a term of two (2) years.

SECTION 18. That Section 54-1704, Idaho Code, be, and the same is hereby amended to read as follows:

54-1704. PRACTICE OF PHARMACY. "Practice of pharmacy" means:

(1) The interpretation, evaluation and dispensing of prescription drug orders;

(2) Participation in drug and device selection, drug administration, prospective and retrospective drug reviews and drug or drug-related research;

(3) The provision of patient counseling and the provision of those acts or services necessary to provide pharmaceutical care;

(4) The responsibility for:

(a) Compounding and labeling of drugs and devices, except labeling by a manufacturer, repackager or distributor of nonprescription drugs and commercially packaged legend drugs and devices;

(b) Proper and safe storage of drugs and devices, and maintenance of proper records for them; and

(c) The offering or performing of those acts, services, operations or transactions necessary to the conduct, operation, management and control of pharmacy;

(5) The prescribing of:

(a) Dietary fluoride supplements when prescribed according to the American dental association's recommendations for persons whose drink-

ing water is proven to have a fluoride content below the United States department of health and human services' recommended concentration;

(b) Agents for active immunization when prescribed for susceptible persons six (6) years of age or older for the protection from communicable disease;

(c) Opioid antagonists pursuant to section 54-1733B, Idaho Code;

(d) Epinephrine auto-injectors pursuant to sections 54-1733C and 54-1733D, Idaho Code;

(e) Drugs, drug categories or devices that are specifically authorized in rules adopted by the board. Such drugs and devices shall be prescribed in accordance with the product's federal food and drug administration-approved labeling. Drugs, drug categories or devices authorized by the board under this section shall be 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;

(ef) Tobacco cessation products pursuant to section 54-1733E, Idaho Code; and

(eg) Tuberculin purified protein derivative products pursuant to section 54-1733EF, Idaho Code.

SECTION 19. That Section 54-1733E, Idaho Code, as enacted by Section 2, Chapter 23, Laws of 2017, be, and the same is hereby amended to read as follows:

54-1733EF. TUBERCULIN PURIFIED PROTEIN DERIVATIVE PRODUCTS -- SCREENING. Notwithstanding any other provision of law, a pharmacist acting in good faith and exercising reasonable care may prescribe and administer a tuberculin purified protein derivative product approved by the federal food and drug administration to a patient for the purpose of screening for tuberculosis infection, provided the following conditions are met:

(1) Prior to prescribing and administering a tuberculin purified protein derivative product, the pharmacist must successfully complete a course on proper test administration and interpretation of results from the United States centers for disease control and prevention (CDC) or a comparable course from a provider accredited by the accreditation council for pharmacy education;

(2) The pharmacist shall follow the recommendations for Mantoux tuberculin skin testing from the CDC regarding test administration and interpretation of results;

(3) Documentation of test results shall be maintained in the records of the pharmacy and a copy of the results shall be made available to the patient upon request; and

(4) If the patient is found to have a positive test reading:

(a) The pharmacist shall coordinate a timely referral to the patient's primary care provider, if applicable, or to a local clinic to coordinate further diagnostics and follow-up care; and

(b) A report shall be submitted to the patient's local health district or to the Idaho department of health and welfare in accordance with the rules governing Idaho reportable diseases.

SECTION 20. That Section 67-1412, Idaho Code, be, and the same is hereby amended to read as follows:

67-1412. DEFINITIONS. As used in sections 67-1412 through 67-1416, Idaho Code, the following definitions apply:

- (1) "Attorney general" means the Idaho office of the attorney general.
- (2) "Core components" means those elements of a 24/7 program that analysis demonstrates are most likely to account for positive program outcomes.
- (3) "Immediate sanction" means sanctions that are applied within minutes of a noncompliant test event.
- (4) "Jurisdiction" means the county or municipality that chooses to participate in a 24/7 program.
- (5) "Law enforcement agency" means the county sheriff's office or another law enforcement agency designated by the county sheriff's office that is charged with enforcement of a 24/7 program.
- (6) "24/7 sobriety and drug monitoring program" or "24/7 program" means the 24/7 sobriety and drug monitoring program established in section 67-2920 67-1413, Idaho Code, that authorizes a court or agency as a condition of bond, sentence, probation, parole or work permit to:
 - (a) Require an individual to abstain from alcohol or dangerous drugs for a period of time when that individual has been charged, pleads guilty, found guilty, convicted or received a withheld judgment for a crime in which the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime including, but not limited to, driving under the influence of alcohol or dangerous drugs; and
 - (b) Require the individual to be subject to testing for alcohol and/or dangerous drugs:
 - (i) At least twice a day at a central location where immediate sanctions can be applied;
 - (ii) Where twice a day testing is impractical, by continuous transdermal alcohol monitoring by means of an electronic monitoring device where timely sanctions can be applied; or
 - (iii) By an alternate method with concurrence of the attorney general and consistent with section 67-1413, Idaho Code.
- (7) "Testing" means a procedure for determining the presence and level of alcohol or a dangerous drug, as enumerated in chapter 80, title 18, Idaho Code, or as provided as a condition of probation, withheld judgment or parole, in an individual's body fluid including blood, breath, urine, saliva or perspiration and includes any combination of the use of breath testing, drug patch testing, urinalysis testing, saliva testing or continuous or transdermal alcohol monitoring. With the concurrence of the attorney general and consistent with section 67-1413, Idaho Code, alternate body fluids can be approved for use.
- (8) "Timely sanction" means a sanction that is applied within a period of time that can be hours or days after the noncompliant test event, but the period of time should be as short as possible and not extend beyond fourteen (14) days.

SECTION 21. That Section 67-4129B, Idaho Code, be, and the same is hereby amended to read as follows:

67-4129B. IDAHO HISTORIC PRESERVATION AND CULTURAL ENHANCEMENT FUND. (1) There is hereby created in the state treasury the Idaho historic preservation and cultural enhancement fund. Moneys in the fund shall

consist of funds received pursuant to section 49-416D, Idaho Code, grants, federal moneys, donations or funds from any other source.

(2) Moneys in the fund may be expended pursuant to appropriation to the state historical society and the fund balance may be appropriated annually to the state historical society. The state treasurer shall invest all idle moneys in the fund. Any interest earned on the investment of idle moneys shall be returned to the fund.

(3) Moneys in the fund shall be used exclusively for the purposes of protection and preservation of the state's cultural resources, historic buildings, structures, artifacts, and records; for enhancement of statewide cultural and historic education opportunities; and for historical research purposes.

SECTION 22. That Section 67-6621, Idaho Code, be, and the same is hereby amended to read as follows:

67-6621. DUTIES OF LOBBYISTS. A person required to register as a lobbyist under this act shall also have the following obligations, the violation of which shall constitute cause for revocation of his registration, and may subject such person, and such person's employer, if such employer aids, abets, ratifies or confirms any such act, to other civil liabilities, as provided by this act:

(1) Such persons shall obtain and preserve all accounts, bills, receipts, books, papers, and documents necessary to substantiate the financial reports required to be made under this act for a period of at least three (3) years from the date of the filing of the statement containing such items, which accounts, bills, receipts, books, papers and documents shall be made available for inspection by the secretary of state at any reasonable time during such three (3) year period; provided, however, that if a lobbyist is required under the terms of his employment contract to turn any records over to his employer, responsibility for the preservation of such records under this subsection shall rest with such employer.

(2) In addition, a person required to register as a lobbyist shall not:

(a) Engage in any activity as a lobbyist before registering as such;

(b) Knowingly deceive or attempt to deceive any legislator to any fact pertaining to any pending or proposed legislation;

(c) Cause or influence the introduction of any bill or amendment thereto for the purpose of thereafter being employed to secure its defeat;

(d) Knowingly represent an interest adverse to any of his employers without first obtaining such employers' consent thereto after full disclosure to such employers of such adverse interest;

(e) Exercise any economic reprisal, extortion, or unlawful retaliation upon any legislator by reason of such legislator's position with respect to, or his vote upon, any pending or proposed legislation;

(f) Accept any employment as a lobbyist for a compensation dependent in any manner upon the passage or defeat of any proposed or pending legislation or upon any other contingency connected with the action of the legislature or of either branch thereof or of any committee thereof. This contingent fee prohibition shall also apply to lobbying activities that pertain to communications with executive officials as described in section 67-6602(7g), Idaho Code.

SECTION 23. That Section 72-1347B, Idaho Code, be, and the same is hereby amended to read as follows:

72-1347B. WORKFORCE DEVELOPMENT TRAINING FUND. (1) There is established in the state treasury a special trust fund, separate and apart from all other public funds of this state, to be known as the workforce

development training fund, hereinafter "training fund." Except as provided herein, all proceeds from the training tax defined described in subsection (7) of this section shall be paid into the training fund. The state treasurer shall be the custodian of the training fund and shall invest said moneys in accordance with law. Any interest earned on the moneys in the training fund shall be deposited in the training fund. Moneys in the training fund shall be disbursed in accordance with the directions of the director. ~~fully-executed~~

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

- (a) To provide training and retraining for skills necessary for specific economic opportunities and industrial expansion initiatives;
- (b) To provide innovative training solutions to meet industry-specific workforce needs or local workforce challenges;
- (c) For refunds of training taxes erroneously collected and deposited in the workforce training fund; and
- (d) For all administrative expenses incurred by the department associated with the collection of the training tax and any other administrative expenses associated with the training fund.

(3) Expenditures from the training fund for purposes authorized in paragraphs (a) and (b) of subsection (2) of this section shall be approved by the director and the director of the department of commerce, in consultation with the office of the governor, based on procedures, criteria and performance measures established by the council appointed pursuant to section 72-1336, Idaho Code.

(4) Expenditures from the training fund for purposes authorized in paragraphs (c) and (d) of subsection (2) of this section shall be approved by the director. The director shall pay all approved expenditures as long as the training fund has a positive balance.

(5) The activities funded by the training fund will be coordinated with similar activities funded by the state division of career technical education.

(6) The council shall report annually to the governor and the joint finance-appropriations committee the commitments and expenditures made from the training fund in the preceding fiscal year and the results of the activities funded by the training fund.

(7) A training tax is hereby imposed on all covered employers required to pay contributions pursuant to section 72-1350, Idaho Code, with the exception of deficit employers who have been assigned a taxable wage rate from rate class ~~six~~ 6 pursuant to section 72-1350, Idaho Code. The training tax rate shall be equal to three percent (3%) of the taxable wage rate then in effect for each eligible, standard-rated and deficit employer. The training tax shall be due and payable at the same time and in the same manner as contributions. This subsection is repealed effective January 1, 2022, unless, prior to that date, the Idaho legislature approves the continuation of this subsection by repeal of this sunset clause.

(8) The provisions of this chapter ~~which~~ that apply to the payment and collection of contributions also apply to the payment and collection of the training tax, including the same calculations, assessments, method of payment, penalties, interest, costs, liens, injunctive relief, collection procedures and refund procedures. In the administration of the provisions of this section, the director is granted all rights, authority, and prerogatives granted under the provisions of this chapter. Moneys collected from an employer delinquent in paying contributions, reserve taxes and the training

tax shall first be applied to any penalty and interest imposed pursuant to the provisions of this chapter and shall then be applied pro rata to delinquent contributions to the employment security fund, section 72-1346, Idaho Code, delinquent reserve taxes to the reserve fund, section 72-1347A, Idaho Code, and delinquent training taxes to the training fund. Any interest and penalties collected pursuant to this subsection shall be paid into the state employment security administrative and reimbursement fund, section 72-1348, Idaho Code, and any interest or penalties refunded under this subsection shall be paid out of that same fund. Training taxes paid pursuant to this section shall not be credited to the employer's experience rating account and may not be deducted by any employer from the wages of individuals in its employ. All training taxes shall be deposited in the clearing account of the employment security fund, section 72-1346, Idaho Code, for clearance only and shall not become part of such fund. After clearance, the moneys shall be deposited in the training fund established in subsection (1) of this section.

(9) Administrative costs related to the training fund shall be paid from the training fund in accordance with subsection (4) of this section.

SECTION 24. That Section 74-107, Idaho Code, be, and the same is hereby amended to read as follows:

74-107. RECORDS EXEMPT FROM DISCLOSURE -- TRADE SECRETS, PRODUCTION RECORDS, APPRAISALS, BIDS, PROPRIETARY INFORMATION. The following records are exempt from disclosure:

(1) Trade secrets including those contained in response to public agency or independent public body corporate and politic requests for proposal, requests for clarification, requests for information and similar requests. "Trade secrets" as used in this section means information, including a formula, pattern, compilation, program, computer program, device, method, technique, process, or unpublished or in-progress research that:

(a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and

(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(2) Production records, housing production, rental and financing records, sale or purchase records, catch records, mortgage portfolio loan documents, or similar business records of a private concern or enterprise required by law to be submitted to or inspected by a public agency or submitted to or otherwise obtained by an independent public body corporate and politic. Nothing in this subsection shall limit the use which can be made of such information for regulatory purposes or its admissibility in any enforcement proceeding.

(3) Records relating to the appraisal of real property, timber or mineral rights prior to its acquisition, sale or lease by a public agency or independent public body corporate and politic.

(4) Any estimate prepared by a public agency or independent public body corporate and politic that details the cost of a public project until such time as disclosed or bids are opened, or upon award of the contract for construction of the public project.

(5) Examination, operating or condition reports and all documents relating thereto, prepared by or supplied to any public agency or independent public body corporate and politic responsible for the regulation or supervision of financial institutions including, but not limited to, banks, savings and loan associations, regulated lenders, business and industrial development corporations, credit unions, and insurance companies, or for the regulation or supervision of the issuance of securities.

(6) Records gathered by a local agency or the Idaho department of commerce, as described in chapter 47, title 67, Idaho Code, for the specific purpose of assisting a person to locate, maintain, invest in, or expand business operations in the state of Idaho.

(7) Shipping and marketing records of commodity commissions used to evaluate marketing and advertising strategies and the names and addresses of growers and shippers maintained by commodity commissions.

(8) Financial statements and business information and reports submitted by a legal entity to a port district organized under title 70, Idaho Code, in connection with a business agreement, or with a development proposal or with a financing application for any industrial, manufacturing, or other business activity within a port district.

(9) Names and addresses of seed companies, seed crop growers, seed crop consignees, locations of seed crop fields, variety name and acreage by variety. Upon the request of the owner of the proprietary variety, this information shall be released to the owner. Provided however, that if a seed crop has been identified as diseased or has been otherwise identified by the Idaho department of agriculture, other state departments of agriculture, or the United States department of agriculture to represent a threat to that particular seed or commercial crop industry or to individual growers, information as to test results, location, acreage involved and disease symptoms of that particular seed crop, for that growing season, shall be available for public inspection and copying. This exemption shall not supersede the provisions of section 22-436, Idaho Code, nor shall this exemption apply to information regarding specific property locations subject to an open burning of crop residue pursuant to section 39-114, Idaho Code, names of persons responsible for the open burn, acreage and crop type to be burned, and time frames for burning.

(10) Information obtained from books, records and accounts required in chapter 47, title 22, Idaho Code, to be maintained by the Idaho oilseed commission and pertaining to the individual production records of oilseed growers.

(11) Records of any risk retention or self-insurance program prepared in anticipation of litigation or for analysis of or settlement of potential or actual money damage claims against a public entity and its employees or against the industrial special indemnity fund except as otherwise discoverable under the Idaho or federal rules of civil procedure. These records shall include, but are not limited to, claims evaluations, investigatory records, computerized reports of losses, case reserves, internal documents and correspondence relating thereto. At the time any claim is concluded, only statistical data and actual amounts paid in settlement shall be deemed a public record unless otherwise ordered to be sealed by a court of competent jurisdiction. Provided however, nothing in this subsection is intended to limit the attorney-client privilege or attorney work product privilege otherwise available to any public agency or independent public body corporate and politic.

(12) Records of laboratory test results provided by or retained by the Idaho food quality assurance laboratory. Nothing in this subsection shall limit the use which can be made, or availability of such information if used, for regulatory purposes or its admissibility in any enforcement proceeding.

(13) Reports required to be filed under chapter 13, title 62, Idaho Code, identifying electrical or natural or manufactured gas consumption data for an individual customer or account.

(14) Voluntarily prepared environmental audits, and voluntary disclosures of information submitted on or before December 31, 1997, to an environmental agency, which are claimed to be confidential business information.

(15) Computer programs developed or purchased by or for any public agency or independent public body corporate and politic for its own use. As used in this subsection, "computer program" means a series of instructions

or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from the computer system, and any associated documentation and source material that explain how to operate the computer program. Computer program does not include:

- (a) The original data including, but not limited to, numbers, text, voice, graphics and images;
- (b) Analysis, compilation and other manipulated forms of the original data produced by use of the program; or
- (c) The mathematical or statistical formulas that would be used if the manipulated forms of the original data were to be produced manually.

(16) Active investigative records and trademark usage audits of the Idaho potato commission specifically relating to the enforcement of chapter 12, title 22, Idaho Code, until the commencement of formal proceedings as provided by rules of the commission; purchase and sales information submitted to the Idaho potato commission during a trademark usage audit, and investigation or enforcement proceedings. Inactive investigatory records shall be disclosed unless the disclosure would violate the standards set forth in subsection (1) (a) through (f) of section 74-124, Idaho Code. Nothing in this subsection shall limit the use which can be made, or availability of such information if used, for regulatory purposes or its admissibility in any enforcement proceeding.

(17) All records copied or obtained by the director of the department of agriculture or his designee as a result of an inspection pursuant to section 25-3806, Idaho Code, except:

- (a) Records otherwise deemed to be public records not exempt from disclosure pursuant to this chapter; and
- (b) Inspection reports, determinations of compliance or noncompliance and all other records created by the director or his designee pursuant to section 25-3806, Idaho Code.

(18) All data and information collected by the division of animal industries or the state brand board pursuant to the provisions of section 25-207B, Idaho Code, or rules promulgated thereunder.

(19) Records disclosed to a county official by the state tax commission pursuant to subsection (4) (c) of section 63-3029B, Idaho Code.

(20) Records, data, information and materials collected, developed, generated, ascertained or discovered during the course of academic research at public institutions of higher education if the disclosure of such could reasonably affect the conduct or outcome of the research, or the ability of the public institution of higher education to patent or copyright the research or protect intellectual property.

(21) Records, data, information and materials collected or utilized during the course of academic research at public institutions of higher education provided by any person or entity other than the public institution of higher education or a public agency.

(22) The exemptions from disclosure provided in subsections (20) and (21) of this section shall apply only until the academic research is publicly released, copyrighted or patented, or until the academic research is completed or terminated. At such time, the records, data, information, and materials shall be subject to public disclosure unless: (a) another exemption in this chapter applies; (b) such information was provided to the institution subject to a written agreement of confidentiality; or (c) public disclosure would pose a danger to persons or property.

(23) The exemptions from disclosure provided in subsections (20) and (21) of this section do not include basic information about a particular research project that is otherwise subject to public disclosure, such as the nature of the academic research, the name of the researcher, and the amount and source of the funding provided for the project.

(24) Records of a county assessor, the state tax commission, a county board of equalization or the state board of tax appeals containing the following information: (i) lists of personal property required to be filed pursuant to section 63-302, Idaho Code, and operating statements required to be filed pursuant to section 63-404, Idaho Code,; and (ii) confidential commercial or financial information including trade secrets. Except with respect to lists of personal property required to be filed pursuant to section 63-302, Idaho Code, and the operator statements required to be filed pursuant to section 63-404, Idaho Code, it shall be the responsibility of the taxpayer to give notice of its claim to exemption by stamping or marking each page or the first page of each portion of documents so claimed. No records that are exempt pursuant to this subsection shall be disclosed without the consent of the taxpayer except as follows:

(a) To any officer, employee or authorized representative of the state or the United States, under a continuing claim of confidentiality, as necessary to carry out the provisions of state or federal law or when relevant to any proceeding thereunder.

(b) In the publication of statistics or reports as long as the statistics or reports do not reasonably lead to the identification of the specific taxpayer or information submitted by taxpayers exempt pursuant to this subsection.

(c) To the board of tax appeals or the district court as evidence or otherwise in connection with an appeal of the taxpayer's property tax assessment, but only if the board or the court, as applicable, has entered a protective order specifying that the taxpayer information may not be disclosed by any person conducting or participating in the action or proceeding, except as authorized by the board or the court in accordance with applicable law.

(d) Nothing in this subsection shall prevent disclosure of the following information:

- (i) Name and mailing address of the property owner;
- (ii) A parcel number;
- (iii) A legal description of real property;
- (iv) The square footage and acreage of real property;
- (v) The assessed value of taxable property;
- (vi) The tax district and the tax rate; and
- (vii) The total property tax assessed.

(25) Results of laboratory tests which have no known adverse impacts to human health conducted by the Idaho state department of agriculture animal health laboratory, related to diagnosis of animal diseases of individual animals or herds, on samples submitted by veterinarians or animal owners unless:

(a) The laboratory test results indicate the presence of a state or federally reportable or regulated disease in animals;

(b) The release of the test results is required by state or federal law; or

(c) The test result is identified as representing a threat to animal or human health or to the livestock industry by the Idaho state department of agriculture or the United States department of agriculture. Nothing in this subsection shall limit the use which can be made, or availability of such information if used, for regulatory purposes or its admissibility in any enforcement proceeding, or the duty of any person to report contagious or infectious diseases as required by state or federal law.

(26) Results of laboratory tests conducted by the Idaho state department of agriculture seed laboratory on samples submitted by seed producers or seed companies. Nothing in this subsection shall limit the use which can be made, or availability of such information pursuant to the provisions of subsections (9) and (10) of section 22-418, Idaho Code.

(27) For policies that are owned by private persons, and not by a public agency of the state of Idaho, records of policies, endorsements, affidavits and any records that discuss policies, endorsements and affidavits that may be required to be filed with or by a surplus line association pursuant to chapter 12, title 41, Idaho Code.

(28) Individual financial statements of a postsecondary educational institution or a proprietary school submitted to the state board of education, its director or a representative thereof, for the purpose of registering the postsecondary educational institution or proprietary school pursuant to section 33-2402 or 33-2403, Idaho Code, or provided pursuant to an administrative rule of the board adopted pursuant to such sections.

(29) Information submitted by insurance companies pursuant to section 41-612(17), Idaho Code.

(30) Documents, materials or other information submitted to the director of the department of insurance as provided in chapter 64, title 41, Idaho Code.

(30¹) Reports, information and other materials exempted by chapter 63, title 41, Idaho Code.

SECTION 25. That Section 74-206, Idaho Code, be, and the same is hereby amended to read as follows:

74-206. EXECUTIVE SESSIONS -- WHEN AUTHORIZED. (1) An executive session at which members of the public are excluded may be held, but only for the purposes and only in the manner set forth in this section. The motion to go into executive session shall identify the specific subsections of this section that authorize the executive session. There shall be a roll call vote on the motion and the vote shall be recorded in the minutes. An executive session shall be authorized by a two-thirds (2/3) vote of the governing body. An executive session may be held:

(a) To consider hiring a public officer, employee, staff member or individual agent, wherein the respective qualities of individuals are to be evaluated in order to fill a particular vacancy or need. This paragraph does not apply to filling a vacancy in an elective office or deliberations about staffing needs in general;

(b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student;

(c) To acquire an interest in real property which is not owned by a public agency;

(d) To consider records that are exempt from disclosure as provided in chapter 1, title 74, Idaho Code;

(e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations;

(f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement;

(g) By the commission of pardons and parole, as provided by law;

(h) By the custody review board of the Idaho department of juvenile corrections, as provided by law;

(i) To engage in communications with a representative of the public agency's risk manager or insurance provider to discuss the adjustment of a pending claim or prevention of a claim imminently likely to be filed. The mere presence of a representative of the public agency's risk manager or insurance provider at an executive session does not satisfy this requirement; or

(j) To consider labor contract matters authorized under section ~~67-2345A~~ 74-206A (1) (a) and (b), Idaho Code.

(2) The exceptions to the general policy in favor of open meetings stated in this section shall be narrowly construed. It shall be a violation of this act to change the subject within the executive session to one not identified within the motion to enter the executive session or to any topic for which an executive session is not provided.

(3) No executive session may be held for the purpose of taking any final action or making any final decision.

SECTION 26. The provisions of Section 5 of this act shall be in full force and effect on and after July 1, 2020.

Approved March 20, 2018

CHAPTER 170
(S.B. No. 1321)

AN ACT
RELATING TO DENTISTS; AMENDING SECTION 54-916B, IDAHO CODE, TO REVISE PROVI-
SIONS REGARDING LICENSURE BY CREDENTIALS.

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

SECTION 1. That Section 54-916B, Idaho Code, be, and the same is hereby amended to read as follows:

54-916B. DENTAL LICENSURE BY CREDENTIALS. The board may issue a li-
cense to practice dentistry without further examination upon evidence that:

(1) The applicant currently holds an active license in good standing to practice dentistry in another state with no disciplinary proceedings or un-
resolved complaints pending before the state's licensing board;

(2) The applicant has been in clinical practice at least five (5) years immediately preceding the date of application for a minimum of ~~one~~ three thousand five hundred (~~1,000~~3,500) hours ~~in each year~~;

(3) The applicant has graduated from a dental school accredited by the commission on dental accreditation of the American dental association as of the date of the applicant's graduation;

(4) The applicant has successfully completed the national board dental examinations;

(5) The applicant has successfully completed a board-approved clinical examination; and

(6) The applicant has paid the application fee as set by board rule.

Approved March 20, 2018

CHAPTER 171
(S.B. No. 1331)

AN ACT

RELATING TO CONCEALED WEAPONS; AMENDING SECTION 18-3302K, IDAHO CODE, TO PROVIDE THAT SENIOR OR EMERITUS MEMBERS OF THE IDAHO STATE BAR MAY PROVIDE CERTAIN INSTRUCTION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 18-3302K, Idaho Code, be, and the same is hereby amended to read as follows:

18-3302K. ISSUANCE OF ENHANCED LICENSES TO CARRY CONCEALED WEAPONS. (1) The sheriff of a county, on behalf of the state of Idaho, must, within ninety (90) days after the filing of an application by any person who is not disqualified from possessing or receiving a firearm under state or federal law and has otherwise complied with the requirements of this section, issue an enhanced license to the person to carry concealed weapons on his person. Licenses issued under this section shall be valid for five (5) years from the date of issue.

(2) The sheriff must make license applications readily available at the office of the sheriff, at other public offices in his jurisdiction and on the website of the Idaho state police. The license application must be in a form to be prescribed by the director of the Idaho state police and must meet the following requirements:

(a) The license application shall require the applicant's name, address, description, signature, date of birth, place of birth, military status, citizenship and the driver's license number or state identification card number if used for identification in applying for the license. If the applicant is not a U.S. citizen, the application shall also require any alien or admission number issued to the applicant by U.S. immigration and customs enforcement, or any successor agency;

(b) The license application may ask the applicant to disclose his social security number but must indicate that disclosure of the applicant's social security number is optional; and

(c) The license application must contain a warning that substantially reads as follows:

CAUTION: Federal law and state law on the possession of weapons and firearms differ. If you are prohibited by federal law from possessing a weapon or a firearm, you may be prosecuted in federal court. A state permit is not a defense to a federal prosecution.

(3) Any person who is applying for original issuance of a license to carry concealed weapons must submit his fingerprints with the completed application. Within five (5) days after the filing of an application, the sheriff must forward the applicant's completed license application and fingerprints to the Idaho state police. The Idaho state police must conduct a national fingerprint-based records check, an inquiry through the national instant criminal background check system, and a check of any applicable state database, including a check for any mental health records for conditions or commitments that would disqualify a person from possessing a firearm under state or federal law, and must return the results to the sheriff within sixty (60) days. If the applicant is not a U.S. citizen, an immigration alien query must also be conducted through U.S. immigration and customs enforcement or any successor agency. The sheriff shall not issue a license before receiving and reviewing the results of the records check.

(4) The sheriff must deny an enhanced license to carry a concealed weapon if the applicant is disqualified under any of the criteria listed in section 18-3302(11), Idaho Code, or does not meet all of the following qualifications:

(a) Is over the age of twenty-one (21) years;

(b) Has been a legal resident of the state of Idaho for at least six (6) consecutive months before filing an application under this section or holds a current license or permit to carry concealed weapons issued by his state of residence; and

(c) Has successfully completed, within the twelve (12) months immediately preceding filing an application, a qualifying handgun course as specified in this paragraph and taught by a certified instructor who is not prohibited from possessing firearms under state or federal law. A copy of the certificate of successful completion of the handgun course, in a form to be prescribed by the director of the Idaho state police and signed by the course instructor, must be submitted to the sheriff at the time of filing an application under this section. Certified instructors of handgun courses when filing an application under this section shall not be required to submit such certificates but must submit a copy of their current instructor's credential. The sheriff must accept as a qualifying handgun course a personal protection course offered by the national rifle association or an equivalent, provided that all personal protection or equivalent courses must meet the following requirements:

(i) The course instructor is certified by the national rifle association, or by another nationally recognized organization that customarily certifies firearms instructors, as an instructor in personal protection with handguns, or the course instructor is certified by the Idaho peace officers standards and training council as a firearms instructor;

(ii) The course is at least eight (8) hours in duration;

(iii) The course is taught face to face and not by electronic or other means; and

(iv) The course includes instruction in:

1. Idaho law relating to firearms and the use of deadly force, provided that such instruction is delivered by either of the following whose name and credential must appear on the certificate:

(A) An active, licensed senior or emeritus member of the Idaho state bar; or

(B) A law enforcement officer who possesses an intermediate or higher Idaho peace officers standards and training certificate;

2. The basic concepts of the safe and responsible use of handguns;

3. Self-defense principles; and

4. Live fire training including the firing of at least ninety-eight (98) rounds by the student.

An instructor must provide a copy of the syllabus and a written description of the course of fire used in a qualifying handgun course that includes the name of the individual instructing the legal portion of the course to the sheriff upon request.

(5) A license to carry concealed weapons must be in a form substantially similar to that of the Idaho driver's license and must meet the following specifications:

(a) The license must provide the licensee's name, address, date of birth and the driver's license number or state identification card number if used for identification in applying for the license;

(b) The license must bear the licensee's signature and picture;

(c) The license must provide the date of issuance and the date on which the license expires; and

(d) The license must be clearly distinguishable from a license issued pursuant to section 18-3302, Idaho Code, and must be marked "Idaho enhanced concealed weapons license" on its face.

(6) Upon issuing a license under the provisions of this section, the sheriff must notify the Idaho state police within three (3) days on a form or in a manner prescribed by the Idaho state police. Information relating to an applicant or licensee received or maintained pursuant to this section by the sheriff or Idaho state police is confidential and exempt from disclosure under section 74-105, Idaho Code.

(7) The fee for original issuance of an enhanced license shall be twenty dollars (\$20.00), which the sheriff must retain for the purpose of performing the duties required in this section. The sheriff may collect the actual cost of any additional fees necessary to cover the processing costs lawfully required by any state or federal agency or department, and as well as the actual cost of materials for the license lawfully required by any state agency or department, which costs must be paid to the state. The sheriff must provide the applicant with a copy of the results of the fingerprint-based records check upon request of the applicant.

(8) The fee for renewal of the enhanced license shall be fifteen dollars (\$15.00), which the sheriff must retain for the purpose of performing duties required in this section. The sheriff may collect the actual cost of any additional fees necessary to cover the processing costs lawfully required by any state or federal agency or department, and as well as the actual cost of materials for the license lawfully required by any state agency or department, which costs must be paid to the state.

(9) Every license that is not, as provided by law, suspended, revoked or disqualified in this state shall be renewable at any time during the ninety (90) day period before its expiration or within ninety (90) days after the expiration date. The sheriff must mail renewal notices ninety (90) days prior to the expiration date of the license. The sheriff shall require the licensee applying for renewal to complete an application. The sheriff must submit the application to the Idaho state police. The Idaho state police must conduct the same records checks as required for an initial license under subsection (3) of this section and must return the results to the sheriff within thirty (30) days. The sheriff shall not issue a renewal before receiving and reviewing the results of the records check and must deny a license if the applicant is disqualified under any of the criteria provided in this section. A renewal license shall be valid for a period of five (5) years. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing ninety-one (91) days to one hundred eighty (180) days after the expiration date of the license must pay a late renewal penalty of ten dollars (\$10.00) in addition to the renewal fee, except that any licensee serving on active duty in the armed forces of the United States during the renewal period shall not be required to pay a late renewal penalty upon renewing ninety-one (91) days to one hundred eighty (180) days after the expiration date of the license. After one hundred eighty-one (181) days, the licensee shall be required to submit an initial application for an enhanced license and pay the fees prescribed in subsection (7) of this section. The renewal fee and any penalty shall be paid to the sheriff for the purpose of enforcing the provisions of this chapter. Upon renewing a license under the provisions of this section, the sheriff must notify the Idaho state police within five (5) days on a form or in a manner prescribed by the Idaho state police.

(10) No city, county or other political subdivision of this state shall modify or add to the requirements of this section, nor shall a city, county or political subdivision ask the applicant to voluntarily submit any information not required in this section. A civil action may be brought to enjoin

a wrongful refusal to issue a license or a wrongful modification of the requirements of this section. The civil action may be brought in the county in which the application was made or in Ada county at the discretion of the petitioner. Any person who prevails against a public agency in any action in the courts for a violation of this section must be awarded costs, including reasonable attorney's fees, incurred in connection with the legal action.

(11) A county sheriff, deputy sheriff or county employee who issues a license to carry a concealed weapon under this section shall not incur any civil or criminal liability as the result of the performance of his or her duties in compliance with this section.

(12) The sheriff shall have the power to revoke a license issued pursuant to this section subsequent to a hearing in accordance with the provisions of chapter 52, title 67, Idaho Code, for any of the following reasons, provided that the sheriff must notify the Idaho state police within three (3) days on a form or in a manner prescribed by the Idaho state police of any such revocation:

(a) Fraud or intentional misrepresentation in the obtaining of a license;

(b) Misuse of a license, including lending or giving a license to another person, duplicating a license or using a license with the intent to unlawfully cause harm to a person or property;

(c) The doing of an act or existence of a condition that would have been grounds for the denial of the license by the sheriff;

(d) The violation of any of the provisions of this section; or

(e) The applicant is adjudicated guilty of or receives a withheld judgment for a crime that would have disqualified him from initially receiving a license.

(13) An applicant who provides information on the application for an enhanced license to carry a concealed weapon knowing the same to be untrue shall be guilty of a misdemeanor.

(14) The attorney general must contact the appropriate officials in other states for the purpose of establishing, to the extent possible, recognition and reciprocity of the enhanced license to carry a concealed weapon by other states, whether by formal agreement or otherwise. The Idaho state police or the attorney general must keep a copy and maintain a record of all such agreements and reciprocity recognitions that must be made available to the public.

(15) Any license issued pursuant to this section is valid throughout the state of Idaho and shall be considered an authorized state license.

(16) The Idaho state police must maintain a computerized record system that is accessible to law enforcement agencies in any state for the purpose of verifying current enhanced licensee status. Information maintained in the record system shall be confidential and exempt from disclosure under section 74-105, Idaho Code, except that any law enforcement officer or law enforcement agency, whether inside or outside the state of Idaho, may access the record system for the purpose of verifying current enhanced licensee status.

Approved March 20, 2018

CHAPTER 172
(S.B. No. 1338)

AN ACT

RELATING TO THE APPROPRIATION TO THE PUBLIC HEALTH DISTRICTS FOR FISCAL YEAR 2019; APPROPRIATING AND TRANSFERRING MONEYS TO THE PUBLIC HEALTH DISTRICTS FROM THE GENERAL FUND TO THE PUBLIC HEALTH TRUST FUND FOR FISCAL YEAR 2019; AND APPROPRIATING MONEYS TO THE PUBLIC HEALTH DISTRICTS FROM THE MILLENNIUM INCOME FUND FOR FISCAL YEAR 2019.

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

SECTION 1. There is hereby appropriated to the Public Health Districts \$9,389,600 from the General Fund to be transferred to the Public Health Trust Fund in accordance with the provisions of Section 39-425, Idaho Code, for the period July 1, 2018, through June 30, 2019.

SECTION 2. There is hereby appropriated to the Public Health Districts \$750,000 from the Idaho Millennium Income Fund to be expended for the period July 1, 2018, through June 30, 2019, for no-cost cessation services to Idahoans who want to quit tobacco use, with a primary emphasis on youth and pregnant women. Further, it is the intent of the Legislature that the appropriation and use of the Idaho Millennium Income Fund moneys are not to be considered state general aid, for purposes of Section 39-425, Idaho Code.

Approved March 20, 2018

CHAPTER 173
(S.B. No. 1339)

AN ACT

RELATING TO THE APPROPRIATION TO THE STATE INDEPENDENT LIVING COUNCIL FOR FISCAL YEAR 2019; APPROPRIATING MONEYS TO THE STATE INDEPENDENT LIVING COUNCIL FOR FISCAL YEAR 2019; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the State Independent Living Council the following amounts to be expended for the designated expense classes from the listed funds for the period July 1, 2018, through June 30, 2019:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Fund	\$117,000	\$106,700		\$223,700
State Independent Living Council (Ded) Fund	265,100	91,300		356,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant				
Fund	<u>48,900</u>	<u>18,500</u>	<u>\$50,300</u>	<u>117,700</u>
TOTAL	\$431,000	\$216,500	\$50,300	\$697,800

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, 2018, through June 30, 2019, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 20, 2018

CHAPTER 174
(S.B. No. 1340)

AN ACT

RELATING TO THE APPROPRIATION TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 2019; APPROPRIATING MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 2019; LIMITING THE NUMBER OF 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 for the designated expense classes from the listed funds for the period July 1, 2018, through June 30, 2019:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Indirect Cost Recovery				
Fund		\$219,300		\$219,300
Public Utilities Commission				
Fund	\$4,409,300	1,654,300	\$73,800	6,137,400
Federal Grant				
Fund	<u>256,700</u>	<u>69,200</u>	<u>0</u>	<u>325,900</u>
TOTAL	\$4,666,000	\$1,942,800	\$73,800	\$6,682,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Public Utilities Commission is authorized no more than fifty-two (52.00) full-time equivalent positions at any point during the period July 1, 2018, through June 30, 2019, 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, 2017~~8~~, the annual salary of members of the public utilities commission shall be one hundred ~~three~~ six thousand ~~seven~~ eight hundred ~~fifty-five~~ sixty-eight dollars (\$~~103,755~~106,868) and shall be paid from sources set by the legislature.

Approved March 20, 2018

CHAPTER 175
(S.B. No. 1342)

AN ACT

RELATING TO THE APPROPRIATION TO THE ATTORNEY GENERAL FOR FISCAL YEAR 2019; APPROPRIATING MONEYS TO THE ATTORNEY GENERAL FOR FISCAL YEAR 2019; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND EXEMPTING THE APPROPRIATION FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS.

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

SECTION 1. There is hereby appropriated to the Attorney General the following amounts to be expended according to the designated programs and expense classes from the listed funds for the period July 1, 2018, through June 30, 2019:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. STATE LEGAL SERVICES:					
FROM:					
General					
Fund	\$19,763,600	\$799,500	\$230,500		\$20,793,600
Consumer Protection					
Fund	250,400	153,000			403,400
Idaho Millennium Income					
Fund	98,700	1,100	6,200		106,000
Federal Grant					
Fund	<u>812,000</u>	<u>349,200</u>	<u>8,200</u>		<u>1,169,400</u>
TOTAL	\$20,924,700	\$1,302,800	\$244,900		\$22,472,400
II. INTERNET CRIMES AGAINST CHILDREN:					
FROM:					
General					
Fund	\$853,300	\$259,000	\$48,500	\$788,700	\$1,949,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. SPECIAL LITIGATION:					
FROM:					
General					
Fund		\$890,700			\$890,700
GRAND TOTAL	\$21,778,000	\$2,452,500	\$293,400	\$788,700	\$25,312,600

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Attorney General is authorized no more than two hundred ten and six-tenths (210.60) full-time equivalent positions at any point during the period July 1, 2018, through June 30, 2019, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. EXEMPTIONS FROM OBJECT AND PROGRAM TRANSFER LIMITATIONS. For fiscal year 2019, the Attorney General is hereby exempted from the provisions of Section 67-3511(1), (2) and (3), Idaho Code, allowing unlimited transfers between object codes and between programs for all moneys appropriated to it for the period July 1, 2018, through June 30, 2019. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

Approved March 20, 2018

CHAPTER 176
(H.B. No. 368)

AN ACT

RELATING TO HIGHER EDUCATION; AMENDING SECTION 33-107A, IDAHO CODE, TO REVISE PROVISIONS REGARDING AN OPTIONAL RETIREMENT PROGRAM AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 33-107B, IDAHO CODE, TO REVISE PROVISIONS REGARDING AN OPTIONAL RETIREMENT PROGRAM FOR COMMUNITY COLLEGES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 33-107A, Idaho Code, be, and the same is hereby amended to read as follows:

33-107A. BOARD MAY ESTABLISH AN OPTIONAL RETIREMENT PROGRAM. (1) The state board of education may establish an optional retirement program under which contracts providing retirement and death benefits may be purchased for members of the teaching staff and officers of the university of Idaho, Idaho state university, Boise state university, Lewis-Clark state college and the state board of education who are hired on or after July 1, 1993; provided, however, that no such employee shall be eligible to participate in an optional retirement program unless he would otherwise be eligible for membership in the public employee retirement system of Idaho. ~~The benefits to be provided for or on behalf of participants in an optional retirement program shall be provided through annuity contracts or certificates, fixed or~~

~~variable in nature, or a combination thereof, whose benefits are owned by the participants in the program.~~

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

- (a) The nature and extent of the rights and benefits to be provided by such contracts for participants and their beneficiaries;
- (b) The relation of such rights and benefits to the amount of contributions to be made;
- (c) The suitability of such rights and benefits to the needs of the participants and the interests of the institutions in the recruitment and retention of staff members; and
- (d) The ability of the designated company to provide such suitable rights and benefits under such contracts.

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

- (a) Eligible employees are:
 - (i) Those faculty and nonclassified staff initially appointed or hired between July 1, 1990, and June 30, 1993; and
 - (ii) Those teaching staff and officers initially appointed or hired on or after July 1, 1993.

All eligible employees, except those who are vested members of the public employee retirement system of Idaho, shall participate in the optional retirement program.

(b) Vested members of the public employee retirement system of Idaho may make a one (1) time irrevocable election to remain a member of that retirement system. The election shall be made in writing, within sixty (60) days of the date of initial hire or appointment or the effective date of this act, whichever occurs later. It shall be filed with the administrative officer of the employing institution.

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

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

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

- (i) To the designated company or companies, an amount equal to nine and thirty-five hundredths percent (9.35%) of each participant's salary, reduced by any amount necessary, if any, to provide contributions to a total disability program provided either by the state or by a private insurance carrier licensed and authorized to provide such benefits or any combination thereof, but in no event less than five percent (5%) of each participant's salary; and
- (ii) To the public employee retirement system, an amount equal to one and forty-nine hundredths percent (1.49%) of salaries of members who are participants in the optional retirement program. This amount shall be paid until July 1, 2025, and is in lieu of amortization payments and withdrawal contributions required pursuant to chapter 13, title 59, Idaho Code.

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

(c) Payment of contributions authorized or required under this subsection shall be made by the financial officer of the employing institution to the designated company or companies for the benefits of each participant.

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

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

SECTION 2. That Section 33-107B, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

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

(a) Eligible employees are the teaching staff and officers initially appointed or hired on or after the effective date of this chapter. All eligible employees, except those who are vested members of the public

employee retirement system of Idaho, shall participate in the optional retirement program.

(b) Eligible employees who are vested members of the public employee retirement system of Idaho may make a one (1) time irrevocable election to transfer to the optional retirement program. The election shall be made in writing and within sixty (60) days of the date of initial hire or appointment, or one hundred fifty (150) days after the effective date of this chapter, whichever occurs later. The election shall be filed with the administrative officer of the employing institution. The election shall be effective not later than the first day of the second pay period following the date of the election.

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

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

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

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

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

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

~~(iii) Effective on and after July 1, 2011, the institutional contribution optional retirement program rate shall be equal to the PERSI public employee retirement system of Idaho contribution rates to the designated company or companies, reduced by the amount necessary, if any, to provide contributions to a total disability program provided either by the state or by a private insurance carrier licensed and authorized to provide such benefits, or any combination thereof, but in no event less than five percent (5%) of each participant's salary.~~

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

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

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

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

Approved March 20, 2018

CHAPTER 177
(H.B. No. 400)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1346, IDAHO CODE, TO REVISE A PROVISION REGARDING AN INITIAL RETIREMENT ALLOWANCE, TO PROVIDE FOR HOW A CERTAIN EARLY RETIREMENT BENEFIT IS DETERMINED, TO PROVIDE FOR HOW A CERTAIN ACCRUED RETIREMENT ALLOWANCE IS DETERMINED AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 59-1346, Idaho Code, be, and the same is hereby amended to read as follows:

59-1346. COMPUTATION OF EARLY RETIREMENT ALLOWANCES. (1) The annual amount of initial early retirement allowance of a member shall be a percentage of the member's accrued retirement allowance. Such percentage shall be one hundred percent (100%) if the sum of the number of years and months of credited service and the age in years and months is equal to or greater than the sum indicated below. Otherwise, such percentage shall be one hundred percent (100%) reduced by one-fourth of one percent (.25%) for each month up to sixty (60) months that the member's retirement precedes the date the member would be eligible to receive full accrued benefit without additional credited service, and further reduced by two-thirds of one percent (.6667%) for each additional month. Effective October 1, 1992, the further reduction for each additional month shall equal six thousand and forty-two ten-thousandths of one percent (.6042%) of the member's average monthly salary; effective October 1, 1993, the further reduction for each additional month shall equal five thousand four hundred and seventeen ten-thousandths of one percent (.5417%) of the member's average monthly salary; and effective October 1, 1994, the further reduction for each additional month shall equal four thousand seven hundred and ninety-two ten-thousandths of one percent (.4792%) of the member's average monthly salary. Entitlement to an annual amount of accrued retirement allowance shall not vest until the effective date of that annual amount of accrued retirement allowance. The retirement benefits shall be calculated on the amounts, terms and conditions in effect at the date of the final contribution by the member.

If a member's service retirement ratio as defined by section 59-1341, Idaho Code, is:	Then the sum of the member's credited service and age must be equal to or greater than:
0.000 to 0.050	90
0.051 to 0.150	89
0.151 to 0.250	88
0.251 to 0.350	87
0.351 to 0.450	86
0.451 to 0.550	85
0.551 to 0.650	84
0.651 to 0.750	83
0.751 to 0.850	82
0.851 to 0.950	81
0.951 to 1.000	80

(2) If the majority of a member's credited service is as an elected official or as an appointed official, except as a member of the Idaho legislature, and that official was normally in the administrative offices of the employer less than twenty (20) hours per week during the term of office, or was normally not required to be present at any particular ~~work station~~ workstation for the employer twenty (20) hours per week or more during the term of office, that member's accrued retirement allowance shall be the sum of:

(a) That amount computed from an average monthly salary for salary received only for those months of service as an elected or as an appointed official that are in excess of the months of other credited service without consideration of any other credited service; and

(b) That accrued retirement allowance that is computed from an average monthly salary for salary received during the member's total months of credited service excluding those excess months referenced in ~~subsection (2) paragraph (a) of this section~~ subsection.

The initial ~~service~~ retirement allowance of members of the Idaho legislature will be computed under the provisions of this section, on the basis of their total months of credited service.

(3) In no case will a member's initial early retirement benefit be equal to more than the member's accrued benefit as of May 1, 1990, or one hundred percent (100%) of the member's average compensation for the three (3) consecutive years of employment that produce the greatest aggregate compensation, whichever is greater. If the benefit is calculated to exceed one hundred percent (100%) of the member's average compensation, the member shall be eligible for and may choose either:

(a) An annual early retirement allowance equal to the member's average annual compensation for the three (3) consecutive years of employment that produced the greatest aggregate compensation; or

(b) A separation benefit.

(4) A member's accrued retirement allowance, as otherwise provided in subsections (1) and (2) of this section, shall not be less than the minimum accrued retirement allowance provided in this subsection. The determination of the initial early retirement allowance provided in subsections (1) and (2) of this section and the application of the provisions in subsection (3) of this section will be made after the determination of the minimum accrued retirement allowance provided in this subsection.

(a) The provisions of this subsection shall apply to members who have at least two (2) separate periods of employment covered under this chapter where each separate period of employment would otherwise be eligible for a separation benefit described in section 59-1359, Idaho Code.

For purposes of this subsection, if a separation of employment occurs that does not exceed sixty (60) consecutive calendar months, then the member's period of employment shall be considered a continuous period of employment. For purposes of this subsection, the date of last contribution is the date of final contribution for each period of employment.

(b) For each separate period of employment considered under this subsection, the member must not have received a separation benefit for that period or, if he has received such a separation benefit under section 59-1359, Idaho Code, he must have completed reinstatement of all previous credited service associated with all separation benefits for all periods of employment as permitted under section 59-1360, Idaho Code.

(c) The minimum accrued retirement allowance shall be equal to the largest accrued retirement allowance calculated at each date of last contribution based upon the benefit and eligibility provisions in effect as of the date of the last contribution made during such separate period of employment. For purposes of determining the accrued retirement allowance for each date of last contribution:

(i) The member must have at least sixty (60) months of credited service at the date of last contribution;

(ii) The member's months of credited service and average monthly salary are determined based solely on all periods of employment up to that date of last contribution, ignoring later periods of employment; and

(iii) The accrued retirement allowance computed for each period is multiplied by the bridging factor as provided in section 59-1355(3), Idaho Code, between the date of the last contribution made during the separate period of employment and the date of the member's final contribution made during the last period of employment prior to retirement.

Approved March 20, 2018

CHAPTER 178
(H.B. No. 402)

AN ACT

RELATING TO THE FIREMEN'S RETIREMENT FUND; AMENDING SECTION 72-1432, IDAHO CODE, TO PROVIDE THAT CERTAIN PAYMENTS AND DUTIES SHALL TRANSFER TO AN ANNEXING CITY OR FIRE DISTRICT AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 72-1432, Idaho Code, be, and the same is hereby amended to read as follows:

72-1432. PENSION FUND CONTRIBUTIONS BY CITIES AND FIRE DISTRICTS -- REMITTANCES. Beginning October 1, 1978, it shall also be the duty of the cities and fire districts of this state employing paid firefighters who are establishing the right to benefits under the provisions of chapter 14, title 72, Idaho Code, and of the boards and officers having authority therein, to cause to be remitted to the public employee retirement system board, as an incident to and part of the current expenses of such cities and fire districts, a sum equivalent to the total contribution rate and tax percentage paid into the Idaho public employee retirement system and the social security act on other public employees plus one percent (1%) thereafter of the average paid firefighter's salary or wage in the state of Idaho, or the salary or wage of each individual firefighter, to be computed according to

the classification of each firefighter under Option I or Option II as defined under section 72-1434, Idaho Code, for each paid firefighter employed by said cities or fire districts. The average paid salary or wage or individual firefighter's salary or wage shall be measured and determined by the actual salary or wage earned during the twelve (12) month period beginning July 1 and ending June 30 immediately preceding September 1. Sums shall be remitted no later than five (5) days after each pay date as provided for remittances for individual firefighters as set forth in section 72-1431, Idaho Code. When a city or fire district is annexed by another city or fire district, the requirement of an annexed city or fire district to pay pursuant to this section shall transfer to the annexing city or fire district. The annexing city or fire district shall have the duty to cause to be remitted to the public employee retirement system board, as an incident to and part of the current expenses of such cities and fire districts, an amount as determined by the provisions of this section.

Approved March 20, 2018

CHAPTER 179
(H.B. No. 405)

AN ACT

RELATING TO THE UNFAIR SALES ACT; REPEALING CHAPTER 4, TITLE 48, IDAHO CODE, RELATING TO THE UNFAIR SALES ACT.

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

SECTION 1. That Chapter 4, Title 48, Idaho Code, be, and the same is hereby repealed.

Approved March 20, 2018

CHAPTER 180
(H.B. No. 433)

AN ACT

RELATING TO THE DEPARTMENT OF ADMINISTRATION; AMENDING SECTION 67-5709, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR SHALL HAVE EXCLUSIVE CONTROL OVER CERTAIN MULTI-AGENCY FACILITIES, TO REVISE TERMINOLOGY, TO REMOVE REFERENCE TO THE STATE BUILDING AUTHORITY AND TO PROVIDE THAT CERTAIN FUNDS DEPOSITED TO THE PERMANENT BUILDING ACCOUNT SHALL BE ACCOUNTED FOR SEPARATELY.

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

SECTION 1. That Section 67-5709, Idaho Code, be, and the same is hereby amended to read as follows:

67-5709. MANAGEMENT OF STATE FACILITIES. (1) In addition to the authority granted by section 67-1603, Idaho Code, the director of the department of administration shall have exclusive control of the capitol mall properties identified in subsection (2) of this section and, where not otherwise established by law, multi-agency facilities owned or leased by the state of Idaho. The department of administration shall have authority to promulgate rules relating to use of those properties, including the authority to promulgate rules requiring a permit for various uses of the

capitol mall properties. Violations of rules promulgated under this section shall be infractions. The director shall have authority to sue to enjoin any threatened or continuing violation of such rules.

(2) Except as otherwise provided by law, the capitol mall properties shall include state of Idaho lands and buildings, together with any appurtenant grounds and systems including, but not limited to, electrical, plumbing, sewer, water, heating, ventilation and air conditioning systems as well as geothermal systems and tunnels, located between blocks one (1) and one hundred thirty-six (136) as shown on the Boise City original townsite plat filed in the Ada County recorder's office in book 1 on page 1. Subject to the following, the capitol mall properties shall be identified in rules promulgated pursuant to this section:

(a) At a minimum, the capitol mall properties shall consist of the following grounds, buildings, improvements and real property in Boise, Idaho: Joe R. Williams (700 W. State street), Len B. Jordan (650 W. State street), Pete T. Cenarrusa (450 W. State street), Division of Public Works (502 N. 4th street), Alexander House (304 W. State street), State Library (325 W. State street), Secretary of State (450 N. 4th street), 954 Jefferson (954 W. Jefferson street), Capitol Annex (514 W. Jefferson street), Borah Building (304 N. 8th street), and Steunenberg Monument Park (intersection of Capitol boulevard and Bannock street), and the Idaho Supreme Court (451 W. State street); provided, that the Idaho supreme court may regulate uses at the Idaho supreme court building and its grounds.

(b) The parking facilities, including appurtenant grounds and systems, at the following locations in Boise, Idaho, shall also be within the capitol mall properties: West State street parking facility, occupying block 101 as shown on the Boise City original townsite plat; 3rd street and Washington street parking facility, occupying a portion of block 105 as shown on the Boise City original townsite plat; 6th street and Washington street parking facility, occupying a portion of block 96 as shown on the Boise City original townsite plat; 8th street and Jefferson street parking facility, occupying a portion of block 66 as shown on the Boise City original townsite plat; and 10th street and Jefferson parking facility, occupying a portion of block 68 as shown on the Boise City original townsite plat.

(c) The space within the interior of the capitol building shall be allocated and controlled as set forth in section 67-1602, Idaho Code; provided however, that the executive and legislative departments may subject all or a part of such space to the rules promulgated pursuant to this section as set forth in subsection (3) of this section.

(3) Rules promulgated pursuant to this section shall apply to properties ~~not within the capitol mall properties described in subsection (1) of this section~~ upon the request of the state of Idaho public entity owning or controlling the property. When such a request has been made, the property subject to the request shall be identified by the director of the department of administration in rules promulgated under this section. Violations of the rules adopted under this section shall be infractions. The director of the department of administration and the governing authority of the requesting entity shall have the authority to sue to enjoin any threatened or continuing violation of such rules. All state law enforcement personnel, any sheriff or deputy sheriff in a county in which the property is located and any police officer in a city in which the property is located shall have authority to enforce the rules for that property.

(4) Responsibility for law enforcement at the capitol mall properties is vested in the director of the Idaho state police. In coordination with the director of the Idaho state police, Ada County and the city of Boise are granted jurisdiction to enforce the laws of the state of Idaho, the ordinances of Ada County, the ordinances of the city of Boise and the rules pro-

mulgated pursuant to this section. The director of the department of administration, or his designee, shall be responsible for security at the capitol mall properties and has the authority to contract with private contractors to provide security for persons and property at the capitol mall properties.

(5) The director of the department of administration may pay personnel costs and operating expenditures incurred in the operation and management of the capitol mall properties and the multi-agency facilities ~~constructed through the state building authority~~ from the rents received therefrom. Proceeds accruing from such rental contracts and lease agreements after payment of personnel costs and operating expenditures which are in excess of two hundred thousand dollars (\$200,000) at the end of the fiscal year shall be deposited to the credit of the permanent building account and accounted for separately for each property. Proceeds from the rental of parking spaces at the capitol mall shall be deposited upon receipt to the credit of the permanent building account. Said proceeds shall not be expended without an appropriation and shall only be appropriated for the security, maintenance and upkeep of the ~~capitol mall properties~~ property generating the proceeds.

(6) Nothing contained in this section shall be deemed to give the department of administration control or management over the garden level, the first, third or fourth floors of the state capitol building which are vested with the legislative branch of government.

Approved March 20, 2018

CHAPTER 181
(H.B. No. 448)

AN ACT

RELATING TO BREASTFEEDING; AMENDING SECTION 18-4101, IDAHO CODE, TO PROVIDE AN EXEMPTION FOR THE BREASTFEEDING OF A CHILD AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 18-4116, IDAHO CODE, TO PROVIDE AN EXEMPTION FOR THE BREASTFEEDING OF A CHILD AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 18-4101, Idaho Code, be, and the same is hereby amended to read as follows:

18-4101. DEFINITIONS. The following definitions are applicable to this act:

(A) "Obscene" material" means any matter:

(1) ~~w~~Which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; and

(2) ~~w~~Which depicts or describes patently offensive representations or descriptions of:

(a) ~~u~~Ultimate sexual acts, normal or perverted, actual or simulated; or

(b) ~~m~~Masturbation, excretory functions, or lewd exhibition of the genitals or genital area.

Nothing herein contained is intended to include or proscribe any matter which, when considered as a whole, and in the context in which it is used, possesses serious literary, artistic, political or scientific value.

In prosecutions under this act, where circumstances of production, presentation, sale, dissemination, or publicity indicate that the matter is being commercially exploited by the defendant for the sake of its prurient appeal, such evidence is probative with respect to the nature of the matter and

can justify the conclusion that, in the context in which it is used, the matter has no serious literary, artistic, political, or scientific value.

(B) "Prurient interest" means a shameful or morbid interest in nudity, sex, or excretion, which goes substantially beyond customary limits of candor in description or representation of such matters. If it appears from the character of the material or the circumstances of its dissemination that the subject matter is designed for a specially susceptible audience or clearly defined deviant sexual group, the appeal of the subject matter shall be judged with reference to such audience or group.

(C) "Matter" or "material" means any book, magazine, newspaper, or other printed or written material; or any picture, drawing, photograph, motion picture, or other pictorial representation; or any statue or other figure; or any recording, transcription, or mechanical, chemical, or electrical reproduction; or any other articles, equipment, machines, or materials.

(D) "Person" means any individual, partnership, firm, association, corporation, or other legal entity; or any agent or servant thereof.

(E) "Distribute" means to transfer possession of, whether with or without consideration, by any means.

(F) "Knowingly" means having actual or constructive knowledge of the character of the subject matter or live conduct. A person shall be deemed to have constructive knowledge of the character of the subject matter or live conduct if he has knowledge of facts which would put a reasonable and prudent man on notice as to the suspect nature of the matter, and the failure to inspect the contents is either for the purpose of avoiding such disclosure or is due to reckless conduct.

(G) "Reckless conduct" is conduct which consciously disregards a substantial and unjustifiable risk that matter may be obscene. The risk must be of such a nature and degree that, considering the nature and purpose of the actor's conduct and the circumstances known to him, its disregard involves a gross deviation from the standard of conduct that an average law-abiding person would observe in the actor's situation under like circumstances.

(H) "Exhibit" means to show or display.

(I) "Obscene live conduct" means any physical human body activity, whether performed or engaged in alone or with other persons, including but not limited to singing, speaking, dancing, acting, simulating, or pantomiming, where:

(1) ~~the~~ average person, applying contemporary community standards, would find such conduct, when considered as a whole, appeals to the prurient interest; and

(2) ~~the~~ conduct is patently offensive because it consists of:

(a) ~~ultimate~~ sexual acts, normal or perverted, actual or simulated; or

(b) ~~m~~Masturbation, excretory functions, or lewd exhibition of the genitals or genital area.

Nothing herein contained is intended to include or proscribe any conduct which, when considered as a whole, and in the context in which it is used, possesses serious literary, artistic, political or scientific value. In prosecutions under this act, where circumstances of production, presentation, advertising, or exhibition indicate that live conduct is being commercially exploited by the defendant for the sake of its prurient appeal, such evidence is probative with respect to the nature of the conduct and can justify the conclusion that, in the context in which it is used, the matter has no serious literary, artistic, political or scientific value. Nothing herein contained is intended to include or proscribe the breastfeeding of a child or the expression of breast milk for the purpose of feeding a child.

SECTION 2. That Section 18-4116, Idaho Code, be, and the same is hereby amended to read as follows:

18-4116. INDECENT EXPOSURE. Every person who willfully and lewdly, either:

(1) Exposes his or her genitals, in any public place, or in any place where there is present another person or persons who are offended or annoyed thereby; or

(2) Procures, counsels, or assists any person so to expose his or her genitals, where there is present another person or persons who are offended or annoyed thereby is guilty of a misdemeanor.

Any person who pleads guilty to or is found guilty of a violation of subsection (1) or (2) of this section or a similar statute in another state or any local jurisdiction for a second time within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), is guilty of a felony and shall be imprisoned in the state prison for a period not to exceed ten (10) years.

The provisions of this section shall not apply to the breastfeeding of a child or the expression of breast milk for the purpose of feeding a child.

Approved March 20, 2018

CHAPTER 182
(H.B. No. 465)

AN ACT

RELATING TO MEDICAID; AMENDING SECTION 56-255, IDAHO CODE, TO REVISE PROVISIONS REGARDING SERVICES TO BE PROVIDED.

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

SECTION 1. That Section 56-255, Idaho Code, be, and the same is hereby amended to read as follows:

56-255. MEDICAL ASSISTANCE PROGRAM -- SERVICES TO BE PROVIDED. (1) The department may make payments for the following services furnished by providers to participants who are determined to be eligible on the dates on which the services were provided. Any service under this section shall be reimbursed only when medically necessary within the appropriations provided by law and in accordance with federal law and regulation, Idaho law and department rule. Notwithstanding any other provision of this chapter, medical assistance includes the following benefits specific to the eligibility categories established in section 56-254(1), (2) and (3), Idaho Code, as well as a list of benefits to which all Idaho medicaid participants are entitled, defined in subsection (5) of this section.

(2) Specific health benefits and limitations for low-income children and working-age adults with no special health needs include:

(a) All services described in subsection (5) of this section;

(b) Early and periodic screening, diagnosis and treatment services for individuals under age twenty-one (21) years, and treatment of conditions found; and

(c) Cost-sharing required of participants. Participants in the low-income children and working-age adult group are subject to the following premium payments, as stated in department rules:

(i) Participants with family incomes equal to or less than one hundred thirty-three percent (133%) of the federal poverty guideline are not required to pay premiums; and

(ii) Participants with family incomes above one hundred thirty-three percent (133%) of the federal poverty guideline will be required to pay premiums in accordance with department rule.

(3) Specific health benefits for persons with disabilities or special health needs include:

- (a) All services described in subsection (5) of this section;
- (b) Early and periodic screening, diagnosis and treatment services for individuals under age twenty-one (21) years, and treatment of conditions found;
- (c) Case management services as defined in accordance with section 1905(a) (19) or section 1915(g) of the social security act; and
- (d) Long-term care services, including:
 - (i) Nursing facility services, other than services in an institution for mental diseases, subject to participant cost-sharing;
 - (ii) Home-based and community-based services, subject to federal approval, provided to individuals who require nursing facility level of care who, without home-based and community-based services, would require institutionalization. These services will include community supports, including options for self-determination or family-directed, which will enable individuals to have greater freedom to manage their own care within the determined budget as defined by department rule; and
 - (iii) Personal care services in a participant's home, prescribed in accordance with a plan of treatment and provided by a qualified person under supervision of a registered nurse;
- (e) Services for persons with developmental disabilities, including:
 - (i) Intermediate care facility services, other than such services in an institution for mental diseases, for persons determined in accordance with section 1902(a) (31) of the social security act to be in need of such care, including such services in a public institution, or distinct part thereof, for persons with intellectual disabilities or persons with related conditions;
 - (ii) Home-based and community-based services, subject to federal approval, provided to individuals who require an intermediate care facility for people with intellectual disabilities (ICF/ID) level of care who, without home-based and community-based services, would require institutionalization. These services will include community supports and options for self-directed or family-directed services, which will enable individuals to have greater freedom to manage their own care within the determined budget as defined by department rule. The department shall allow budget modifications only when needed to obtain or maintain employment or when health and safety issues are identified and meet the criteria as defined in department rule; and
 - (iii) Developmental disability services for children and adults shall be available based on need through state plan services or waiver services as described in department rule. The department shall develop a blended rate covering both individual and group developmental therapy services;
- (f) Home health services, including:
 - (i) Intermittent or part-time nursing services provided by a home health agency or by a registered nurse when no home health agency exists in the area;
 - (ii) Home health aide services provided by a home health agency; and
 - (iii) Physical therapy, occupational therapy or speech pathology and audiology services provided by a home health agency or medical rehabilitation facility;

- (g) Hospice care in accordance with section 1905(o) of the social security act;
 - (h) Specialized medical equipment and supplies;
 - (i) Medicare cost-sharing, including:
 - (i) Medicare cost-sharing for qualified medicare beneficiaries described in section 1905(p) of the social security act;
 - (ii) Medicare part A premiums for qualified disabled and working individuals described in section 1902(a)(10)(E)(ii) of the social security act;
 - (iii) Medicare part B premiums for specified low-income medicare beneficiaries described in section 1902(a)(10)(E)(iii) of the social security act; and
 - (iv) Medicare part B premiums for qualifying individuals described in section 1902(a)(10)(E)(iv) and subject to section 1933 of the social security act; and
 - (j) Nonemergency medical transportation.
- (4) Specific health benefits for persons over twenty-one (21) years of age who have medicare and medicaid coverage include:
- (a) All services described in subsection (5) of this section, other than if provided under the federal medicare program;
 - (b) All services described in subsection (3) of this section, other than if provided under the federal medicare program;
 - (c) Other services that supplement medicare coverage; and
 - (d) Nonemergency medical transportation.
- (5) Benefits for all medicaid participants, unless specifically limited in subsection (2), (3) or (4) of this section, include the following:
- (a) Health care coverage including, but not limited to, basic inpatient and outpatient medical services, and including:
 - (i) Physicians' services, whether furnished in the office, the patient's home, a hospital, a nursing facility or elsewhere;
 - (ii) Services provided by a physician or other licensed practitioner to prevent disease, disability and other health conditions or their progressions, to prolong life, or to promote physical or mental health; and
 - (iii) Hospital care, including:
 1. Inpatient hospital services other than those services provided in an institution for mental diseases;
 2. Outpatient hospital services; and
 3. Emergency hospital services;
 - (iv) Laboratory and x-ray services;
 - (v) Prescribed drugs;
 - (vi) Family planning services and supplies for individuals of child-bearing age;
 - (vii) Certified pediatric or family nurse practitioners' services;
 - (viii) Emergency medical transportation;
 - (ix) Behavioral health services, including:
 1. Outpatient behavioral health services that are appropriate, delivered by providers that meet national accreditation standards and may include community-based rehabilitation services and case management; and
 2. Inpatient psychiatric facility services whether in a hospital, or for persons under the age of twenty-two (22) years in a freestanding psychiatric facility as permitted by federal law;
 - (x) Medical supplies, equipment, and appliances suitable for use in the home;
 - (xi) Physical therapy and speech therapies combined to align with the annual medicare caps; and

- (xii) Occupational therapy to align with the annual medicare cap;
- (b) Primary care medical homes;
- (c) Dental services. ~~Children shall have access to prevention, diagnosis and treatment services as defined in federal law. Adult coverage shall be limited to medically necessary oral surgery and palliative services and associated diagnostic services. Select covered benefits include: exams, radiographs, periodontal, oral and maxillofacial surgery and adjunctive general services as defined in department rule. Pregnant women and adult participants with disabilities or special health needs shall have access to dental services that reflect evidence-based practice and medical and surgical services furnished by a dentist in accordance with section 1905(a) (5) (B) of the social security act;~~
- (d) Medical care and any other type of remedial care recognized under Idaho law, furnished by licensed practitioners within the scope of their practice as defined by Idaho law, including:
 - (i) Podiatrists' services based on chronic care criteria as defined in department rule;
 - (ii) Optometrists' services based on chronic care criteria as defined in department rule;
 - (iii) Chiropractors' services shall be limited to six (6) visits per year; and
 - (iv) Other practitioners' services, in accordance with department rules;
- (e) Services for individuals with speech, hearing and language disorders as defined in department rule;
- (f) Eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist;
- (g) Services provided by essential providers, including:
 - (i) Rural health clinic services and other ambulatory services furnished by a rural health clinic in accordance with section 1905(1) (1) of the social security act;
 - (ii) Federally qualified health center (FQHC) services and other ambulatory services that are covered under the plan and furnished by an FQHC in accordance with section 1905(1) (2) of the social security act;
 - (iii) Indian health services;
 - (iv) District health departments; and
 - (v) The family medicine residency of Idaho and the Idaho state university family medicine residency; and
- (h) Physician, hospital or other services deemed experimental are excluded from coverage. The director may allow coverage of procedures or services deemed investigational if the procedures or services are as cost-effective as traditional, standard treatments.

Approved March 20, 2018

CHAPTER 183
(H.B. No. 492)

AN ACT

RELATING TO PROPERTY TAX RELIEF FOR CERTAIN DISABLED VETERANS; AMENDING SECTION 63-704, IDAHO CODE, TO PROVIDE THAT CERTAIN DISABLED VETERANS SHALL BE ELIGIBLE FOR A SPECIAL PROPERTY TAX REDUCTION; AMENDING CHAPTER 7, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-705A, IDAHO CODE, TO ESTABLISH A SPECIAL PROPERTY TAX REDUCTION FOR CERTAIN DISABLED VETERANS AND SURVIVING SPOUSES; AND AMENDING SECTION 63-707, IDAHO CODE, TO INCLUDE CERTAIN INFORMATION IN THE PROPERTY TAX REDUCTION ROLLS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 63-704, Idaho Code, be, and the same is hereby amended to read as follows:

63-704. AMOUNT OF PROPERTY TAX REDUCTION. (1) Each claimant qualifying for and applying for a reduction in property taxes under the provisions of sections 63-701 through 63-710, Idaho Code, shall be allowed a reduction in property taxes on his homestead for the current year only, in the amounts provided by subsection (4) of this section.

(2) All property taxes continue to be the responsibility of the individual taxpayer, and all property taxes continue to be perpetual liens against the property against which assessed, and all property taxes may be collected and enforced in the usual manner, if the taxpayer does not receive any property tax reduction as provided under sections 63-701 through 63-710, Idaho Code, or if the taxpayer receives less property tax reduction than the whole amount of property taxes he is charged with.

(3) The claimant property owner's property tax reduction shall be based upon the current year's assessed value and the current year's levy.

(4) Property tax reductions qualified under sections 63-701 through 63-710, Idaho Code, shall be allowed as set out in section 2, chapter 59, laws of 1992, and adjusted for cost-of-living fluctuations as provided in section 63-705, Idaho Code.

(5) A claimant who is a veteran with a service-connected disability of one hundred percent (100%) shall also be eligible for a special property tax reduction, as provided in section 63-705A, Idaho Code.

SECTION 2. That Chapter 7, 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 63-705A, Idaho Code, and to read as follows:

63-705A. SPECIAL PROPERTY TAX REDUCTION FOR DISABLED VETERANS. (1) For tax year 2019 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%) shall receive a special reduction in property taxes levied on his homestead, as defined in section 63-701, Idaho Code. The special property 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, whichever is less. If a veteran qualifies for property tax reduction under both this section and section 63-705, Idaho Code, the combined property tax reduction amount may not exceed the actual amount of the veteran's property taxes on his homestead.

(2) An applicant for a special property 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.

(3) In the event that a qualified veteran applies for the special property tax reduction in this section but then dies, the veteran's surviving spouse is entitled to receive the special property 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.

SECTION 3. That Section 63-707, Idaho Code, be, and the same is hereby amended to read as follows:

63-707. PROCEDURE AFTER CLAIM APPROVAL. (1) The county assessor shall prepare a property tax reduction roll, which shall be in addition to the property roll, the subsequent property roll and missed property rolls, which property tax reduction roll shall show:

(a) The name of the taxpayer;

(b) The description of the property for which a reduction in property taxes is claimed, suitably detailed to meet the requirements of the individual county;

(c) The assessor's best estimate of current market value, and any prorated net taxable value of the eligible portion of the property's current market value for assessment purposes; and

(d) The amount of tax reduction for which the applicant is eligible as determined by the income of the claimant and, if married, the claimant's spouse, pursuant to sections 63-704 and 63-705, Idaho Code; and

(e) The amount of tax reduction for which a disabled veteran homeowner is eligible, pursuant to section 63-705A, Idaho Code.

(2) As soon as possible, but in any event by no later than June 1, the property tax reduction roll shall be certified to the county auditor and to the state tax commission in the manner prescribed by rules promulgated by the state tax commission. The property tax reduction roll shall be accompanied by a copy of the claim forms.

(3) (a) As soon as possible, but in any event by no later than the fourth Monday of October, the county auditor shall complete the property tax reduction roll by adding the following information:

(i) The current year's levy for the code area in which the property is situated;

(ii) The amount of property tax reduction claimed based on the current year's market value for assessment purposes and the current year's levy; and

(iii) The current year's market value for assessment purposes.

(b) As soon as possible, but in any event no later than the fourth Monday of October, the county auditor shall certify the completed property tax reduction roll to the state tax commission in the manner prescribed by rules promulgated by the state tax commission.

(4) The state tax commission shall determine the total number of claims to be allowed in each county, the dollar amount of each claim allowed, and the total dollar amount for all claims for each county. These amounts shall be certified to the county auditor and tax collector by the state tax commission by no later than the third Monday in November.

(5) The state tax commission may audit each and every claim submitted to it, and, any other provision of law notwithstanding, may utilize income tax returns filed by the claimant or by the claimant's spouse to determine the income of the claimant or the claimant's spouse.

(6) If it is determined by the state tax commission that a claim is erroneous, the tax commission shall disapprove so much of the claim as necessary in order to conform with statutory standards. The tax commission shall provide the claimant, or the person or entity acting on behalf of the claimant, written notice of the tax commission's intent to disapprove all or a portion of the claim. The claimant, or the person or entity acting on behalf of the claimant, shall have twenty-eight (28) days to make written protest to the tax commission of the intended action. The claimant, or the person or entity acting on behalf of the claimant, may submit additional information and may request an informal hearing with the commission. If the claimant, or the person or entity acting on behalf of the claimant, fails to make written protest within twenty-eight (28) days, the tax commission shall provide written notice of disapproval to the claimant, or the person or entity acting on behalf of the claimant, by the second Monday of October and to the county auditor of the county from which the claim was received. Any claimant, or person or entity acting on behalf of the claimant, whose claim is disapproved in whole or in part by the state tax commission may:

- (a) File a claim with the county commissioners for a special cancellation pursuant to section 63-711, Idaho Code;
- (b) Appeal such disapproval by the state tax commission to the board of tax appeals or to the district court of the county of residence of the taxpayer within thirty (30) days.

Approved March 20, 2018

CHAPTER 184
(H.B. No. 499)

AN ACT

RELATING TO COUNTY RECORDS; AMENDING SECTION 31-871, IDAHO CODE, TO PROVIDE FOR THE CLASSIFICATION AND RETENTION OF LAW ENFORCEMENT MEDIA RECORDINGS, TO PROVIDE FOR THE DESTRUCTION OF LAW ENFORCEMENT MEDIA RECORDINGS AND COUNTY RECORDS, TO DEFINE TERMS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 31-871, Idaho Code, be, and the same is hereby amended to read as follows:

31-871. CLASSIFICATION AND RETENTION OF RECORDS. (1) County records shall be classified as follows:

(a) "Law enforcement media recording" means a digital record created by a law enforcement agency in the performance of its duties that consists of a recording of visual or audible components or both.

(b) "Permanent records" shall consist of, but not be limited to, the following: proceedings of the governing body, ordinances, resolutions, building plans and specifications for commercial projects and government buildings, bond register, warrant register, budget records, general ledger, cash books and records affecting the title to real property or liens thereon, and other documents or records as may be deemed of permanent nature by the board of county commissioners.

(bc) "Semipermanent records" shall consist of, but not be limited to, the following: claims, contracts, canceled checks, warrants, duplicate warrants, license applications, building applications for commercial projects and government buildings, departmental reports, purchase orders, vouchers, duplicate receipts, bonds and coupons, financial records, and other documents or records as may be deemed of semipermanent nature by the board of county commissioners.

(ed) "Temporary records" shall consist of, but not be limited to, the following: correspondence not related to subsections (1) and (2) of this section, building applications, plans, and specifications for noncommercial and nongovernment projects after the structure or project receives final inspection and approval, cash receipts subject to audit, and other records as may be deemed temporary by the board of county commissioners.

(de) Those records not included in ~~subsection (1)~~ paragraph (a), (b) or (c) or (d) of this subsection shall be classified as permanent, semipermanent or temporary by the board of county commissioners and upon the advice of the office of the prosecuting attorney.

(2) County records shall be retained as follows:

(a) Permanent records shall be retained for not less than ten (10) years.

(b) Semipermanent records shall be kept for not less than five (5) years after date of issuance or completion of the matter contained within the record.

(c) Temporary records shall be retained for not less than two (2) years.

(d) Law enforcement media recordings with evidentiary value shall be retained for not less than two hundred (200) days from the date the recording was made.

(e) Law enforcement media recordings that have no evidentiary value and that are recorded by the law enforcement agency's equipment that is not affixed to any building or structure's interior or exterior wall shall be retained for not less than sixty (60) days from the date the recording was made.

(f) Law enforcement media recordings that have no evidentiary value and that are recorded by the law enforcement agency's equipment that is affixed to any building or structure's interior or exterior wall shall be retained for not less than fourteen (14) days from the date the recording was made.

(g) Records may only be destroyed only by resolution of the board of county commissioners after regular audit and upon the advice of the prosecuting attorney, except that law enforcement media recordings may be destroyed without a resolution. A resolution ordering destruction must list, in detail, records to be destroyed. Such disposition shall be under the direction and supervision of the elected official or department head responsible for such records.

(eh) The provisions of this section shall control the classification and, retention schedules and destruction of all county records unless otherwise provided in Idaho Code or any applicable federal law.

(3) As used in this section:

(a) "Evidentiary value" means containing information relevant to:

(i) Any use of force by a government agency;

(ii) Any events leading up to and including an arrest or citation for a criminal offense;

(iii) Any events that constitute a criminal offense;

(iv) Any encounter about which a complaint has been filed by a subject, or his representative, of the law enforcement media recording; or

(v) Any encounter about which a valid public records request has been filed by a subject, or his representative, of the law enforcement media recording.

(b) "Law enforcement agency" means a county agency given law enforcement powers or that has authority to investigate, enforce, prosecute or punish violators of state or federal criminal statutes, ordinances or regulations including a county sheriff's office, a county prosecuting attorney's office, and misdemeanor and juvenile probation offices. "Law enforcement agency" shall include any private entity contracting with a county to provide the services of a law enforcement agency.

(c) "Valid public records request" means a request as described in section 74-102, Idaho Code.

Approved March 20, 2018

CHAPTER 185
(H.B. No. 503)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-1004B, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE CAREER LADDER.

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

SECTION 1. That Section 33-1004B, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004B. CAREER LADDER. (1) Effective July 1, 2015, all existing instructional staff shall be placed in a cohort on the career ladder starting with the second cell on the residency/professional compensation rung that corresponds with the next higher allocation amount than is currently received by the district, based on the experience and education index pursuant to section 33-1004A, Idaho Code, as applied in fiscal year 2015. For each year between July 1, 2015, and June 30, 2019, those instructional staff will move one (1) cell on the career ladder for each year they are employed by a district and meet the applicable performance criteria for the compensation rung and implementation year, unless such movement would result in the district receiving a lesser allocation than the district would have received if the instructional staff would have moved based on the experience and education index as applied in fiscal year 2015, for such instructional staff the district salary apportionment calculation shall use the amount that would have been applied based on the experience and education index. Applicable performance criteria used for determining movement on the career ladder will be based on the previous year's performance for the applicable number of years.

(2) Effective July 1, 2016, all existing pupil service staff shall be placed in a cohort on the career ladder starting with the second cell on the residency/professional compensation rung or the next higher allocation amount than is currently received by the district, or based on the experience and education index pursuant to section 33-1004A, Idaho Code, as applied in fiscal year 2016, whichever is higher. For individuals holding a pupil personnel services certificate with an occupational therapist or physical therapist endorsement, all experience shall be counted toward the experience calculation from the first year in which the individual held an applicable license from the bureau of occupational licenses and performed occupational therapy or physical therapy services while employed by a school district, a charter school or an accredited private or parochial school. For each year between July 1, 2016, and June 30, 2019, those pupil service staff

will move one (1) cell on the career ladder for each year they are employed by a district and meet the applicable performance criteria for the compensation rung and implementation year, unless such movement would result in the district receiving a lesser allocation than the district would have received if the pupil service staff would have moved based on the experience and education index as applied in fiscal year 2016. For such pupil service staff, the district salary apportionment calculation shall use the amount that would have been applied based on the experience and education index. Applicable performance criteria used for determining movement on the career ladder will be based on the previous year's performance for the applicable number of years.

(3) Instructional staff and pupil service staff who are in their first year of holding a certificate shall be placed in the first cell of the residency compensation rung and shall move one (1) cell on the residency compensation rung for each year they hold a certificate thereafter, for up to three (3) years, at which point they will remain in the third cell of the residency rung until they earn a professional endorsement.

(4) Instructional staff new to teaching in Idaho and pupil service staff new to working in an Idaho public school district or charter school who hold a certificate from a state other than Idaho and who are approved to teach in Idaho will be placed into the cohort of instructional staff on the career ladder table equivalent to their experience and education pursuant to section 33-1004A, Idaho Code, as applied in fiscal year 2015 for instructional staff and 2016 for pupil service staff. For individuals holding an Idaho pupil personnel services certificate with an occupational therapist or physical therapist endorsement, all experience shall be counted toward the experience calculation from the first year in which the individual held an applicable license from the bureau of occupational licenses and performed occupational therapy or physical therapy services while employed by a school district, a charter school or an accredited private or parochial school.

(5) In addition to the allocation amount specified for the applicable cell on the career ladder, school districts shall receive an additional allocation amount for career technical education instructional staff holding an occupational specialist certificate in the area for which they are teaching in the amount of three thousand dollars (\$3,000).

(6) In addition to the allocation amount specified for the applicable cell on the career ladder, school districts shall receive an additional allocation amount for instructional staff and pupil service staff holding a professional endorsement who have acquired additional education and meet the professional compensation rung performance criteria. In determining the additional education allocation amount, only credits and degrees earned based upon a transcript on file with the teacher certification office of the state department of education, earned at an institution of higher education accredited by a body recognized by the state board of education or credits earned through an internship or other work experience approved by the state board of education, shall be credited toward the education allocation. All credits and degrees earned must be in a relevant pedagogy or content area as determined by the state department of education. Education allocation amounts are not cumulative. Instructional staff whose initial certificate is an occupational specialist certificate shall be treated as BA degree-prepared instructional staff. Credits earned by such occupational specialist instructional staff after initial certification shall be credited toward the education allocation. Additional allocations are:

(a) Effective July 1, 2016, through June 30, 2017, the education allocation shall be:

(i) For instructional staff and pupil service staff holding a professional endorsement and a baccalaureate degree and twenty-four (24) or more credits, eight hundred dollars (\$800) per fiscal year.

(ii) For instructional staff and pupil service staff holding a professional endorsement and a master's degree, one thousand four hundred dollars (\$1,400) per fiscal year.

(b) Effective July 1, 2017, through June 30, 2018, the education allocation shall be:

(i) For instructional staff and pupil service staff holding a professional endorsement and a baccalaureate degree and twenty-four (24) or more credits, one thousand two hundred dollars (\$1,200) per fiscal year.

(ii) For instructional staff and pupil service staff holding a professional endorsement and a master's degree, two thousand one hundred dollars (\$2,100) per fiscal year.

(c) Effective July 1, 2018, through June 30, 2019, the education allocation shall be:

(i) For instructional staff and pupil service staff holding a professional endorsement and a baccalaureate degree and twenty-four (24) or more credits, one thousand six hundred dollars (\$1,600) per fiscal year.

(ii) For instructional staff and pupil service staff holding a professional endorsement and a master's degree, two thousand eight hundred dollars (\$2,800) per fiscal year.

(d) Effective July 1, 2019, through June 30, 2020, the education allocation shall be:

(i) For instructional staff and pupil service staff holding a professional endorsement and a baccalaureate degree and twenty-four (24) or more credits, two thousand dollars (\$2,000) per fiscal year.

(ii) For instructional staff and pupil service staff holding a professional endorsement and a master's degree, three thousand five hundred dollars (\$3,500) per fiscal year.

(67) Effective July 1, 2015, through June 30, 2016, the allocation shall be:

Base Allocation	1	2	3	4	5	6	7	8	9	10
Residency/ Professional	\$32,700	\$33,200	\$33,822							
Professional	\$35,498	\$36,885	\$38,311	\$39,775	\$41,282	\$42,089	\$43,668	\$45,305	\$47,004	\$47,603

(78) Effective July 1, 2016, through June 30, 2017, the allocation shall be:

Base Allocation	1	2	3	4	5	6	7	8	9	10
Residency/ Professional	\$33,400	\$34,250	\$35,117							
Professional	\$37,249	\$38,758	\$39,546	\$41,113	\$41,961	\$43,591	\$44,503	\$46,201	\$47,183	\$48,202

(89) Effective July 1, 2017, through June 30, 2018, the allocation shall be:

Base Allocation	1	2	3	4	5	6	7	8	9	10
Residency	\$34,600	\$35,500	\$36,411							
Professional	\$38,999	\$40,630	\$41,155	\$42,825	\$43,391	\$45,102	\$45,711	\$47,467	\$48,122	\$48,802

(910) Effective July 1, 2018, through June 30, 2019, school districts shall receive an allocation for instructional staff and pupil service staff based on the staffs' position on the career ladder.

(a) Instructional staff and pupil service staff in their first year of holding a professional endorsement shall be placed in the first cell of the professional compensation rung.

(b) Instructional staff and pupil service staff previously placed within a cohort shall continue to move one (1) cell on the applicable rung with their cohort unless they have failed to meet the compensation rung performance criteria for the previous three (3) years. Allocations to districts for instructional staff and pupil service staff who have failed to meet the professional compensation rung performance criteria for the previous three (3) years shall be the same as the previous fiscal year. This also applies to the educational allocation.

(101) Effective July 1, 2018, through June 30, 2019, the allocation shall be:

Base

Allocation	1	2	3	4	5	6	7	8	9	10
Residency	\$35,800	\$36,750	\$37,706							
Professional	\$40,750	\$42,503	\$42,765	\$44,538	\$44,820	\$46,614	\$46,918	\$48,734	\$49,061	\$49,401

(112) Effective July 1, 2019, through June 30, 2020, school districts shall receive an allocation for instructional staff and pupil service staff based on the staffs' position on the career ladder as follows:

(a) Instructional staff and pupil service staff in their first year of holding a professional endorsement shall be placed in the first cell of the professional compensation rung.

(b) Instructional staff and pupil service staff previously placed within a cohort shall continue to move one (1) cell on the applicable rung with their cohort unless they have failed to meet the professional compensation rung performance criteria for three (3) of the previous four (4) years. Allocations to districts for instructional staff and pupil service staff who have failed to meet the professional compensation rung performance criteria for three (3) of the previous four (4) years shall be the same as the previous fiscal year. This also applies to the educational allocation.

(123) Effective July 1, 2019, through June 30, 2020, the allocation shall be:

Base

Allocation	1	2	3	4	5	6	7	8	9	10
Residency	\$37,000	\$38,000	\$39,000							
Professional	\$42,500	\$44,375	\$46,250	\$48,125	\$50,000					

(134) A review of a sample of evaluations completed by administrators shall be conducted annually to verify such evaluations are being conducted with fidelity to the state framework for teaching evaluation, including each evaluation component as outlined in administrative rule and the rating given for each component. The state board of education shall randomly select a sample of administrators throughout the state. A portion of such administrators' instructional staff and pupil service staff employee evaluations shall be independently reviewed. The ratio of instructional staff evaluations to pupil service staff evaluations shall be equal to the ratio of the statewide instructional staff salary allowance to pupil service staff salary allowance. The state board of education with input from the Idaho-approved teacher preparation programs and the state department of

education shall identify individuals and a process to conduct the reviews. Administrator certificate holders shall be required to participate in ongoing evaluation training pursuant to section 33-1204, Idaho Code. The state board of education shall report annually the findings of such reviews to the senate education committee, the house of representatives education committee, the state board of education and the deans of Idaho's approved teacher preparation programs. The state board of education shall promulgate rules implementing the provisions of this subsection.

(145) School districts shall submit annually to the state the data necessary to determine whether an instructional staff or pupil service staff member has met the performance criteria for the applicable compensation rung and implementation year. The department of education shall calculate annually whether instructional staff and pupil service staff have met the compensation rung performance criteria based on the data submitted during the previous years that are applicable to the performance criteria for that year. Individually identifiable performance evaluation ratings submitted to the state remain part of the employee's personnel record and are exempt from public disclosure pursuant to section 74-106, Idaho Code.

Approved March 20, 2018

CHAPTER 186
(H.B. No. 514)

AN ACT

RELATING TO TAXATION; AMENDING SECTION 63-3022H, IDAHO CODE, TO REVISE PROVISIONS REGARDING CERTAIN QUALIFIED PROPERTY HELD BY AN ESTATE, TRUST, S CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY OR AN INDIVIDUAL, TO ESTABLISH PROVISIONS REGARDING FAIR MARKET VALUATION, TO ESTABLISH PROVISIONS REGARDING ADJUSTED BASIS ALLOCATION, TO ESTABLISH PROVISIONS REGARDING CERTAIN PART-YEAR RESIDENT AND NONRESIDENT OWNERS OF MULTISTATE ENTITIES AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-3022H. DEDUCTION OF CAPITAL GAINS. (1) If an individual taxpayer reports capital gain net income in determining Idaho taxable income, eighty percent (80%) in taxable year 2001 and sixty percent (60%) in taxable years thereafter of the capital gain net income from the sale or exchange of qualified property shall be a deduction in determining Idaho taxable income.

(2) The deduction provided in this section is limited to the amount of the capital gain net income from all property included in taxable income. Gains treated as ordinary income by the Internal Revenue Code do not qualify for the deduction allowed in this section. The deduction otherwise allowable under this section shall be reduced by the amount of any federal capital gains deduction relating to such property, but not below zero.

(3) Property held by an estate, trust, S corporation, partnership, limited liability company or an individual is "qualified property" under this section if the property had an Idaho situs at the time of sale and is:

(a) Real property held at least twelve (12) months;

(b) Tangible personal property used in Idaho for at least twelve (12) months by a revenue-producing enterprise;

(c) Cattle or horses held for breeding, draft, dairy or sporting purposes for at least twenty-four (24) months in Idaho;

(d) Breeding livestock other than cattle or horses held at least twelve (12) months in Idaho;

(e) Timber grown in Idaho and held at least twenty-four (24) months;

(f) A partnership interest, other than a publicly traded partnership as defined by section 7704(b) of the Internal Revenue Code, held by an individual for at least twelve (12) months, but only to the extent the gain from sale or exchange of the interest is attributable to real property held by the partnership that is classified as a capital asset by section 1221 of the Internal Revenue Code and is qualified real property under paragraph (a) of this subsection. If the partnership holds property in addition to qualified real property, the portion of the capital gain attributable to qualified real property shall be determined under one (1) of the following methods at the option of the taxpayer:

(i) Fair market valuation. The capital gain from the sale or exchange of the interest attributable to qualified real property is the amount by which the fair market value of the qualified real property exceeds the adjusted basis of the qualified real property minus any gain taxable as ordinary income. For purposes of this section, fair market value must be established by:

1. A qualified appraisal as defined in 26 CFR 1.170A-13(c) (3);

2. A county assessor valuation; or

3. Other evidence acceptable to the state tax commission; or

(ii) Adjusted basis allocation. The capital gain from the sale or exchange of the interest attributable to qualified real property is the proportion of the capital gain included in Idaho taxable income that the adjusted basis of qualified real property held by the partnership on the date of sale or exchange of the partnership interest bears to the adjusted basis of all property held by the partnership at least twelve (12) months prior to the date of sale or exchange of the partnership interest. For this purpose, the adjusted basis shall be determined as provided in section 63-30220, Idaho Code.

(4) In determining the period for which property subject to this section has been held by a taxpayer, the provisions of section 1223 of the Internal Revenue Code shall apply, except that the holding period shall not include the holding period of property given up in an exchange, when such property would not have constituted qualified property under this section without regard to meeting the holding period nor shall the holding period include any time period in which the property subject to this section was held by a corporation other than an S corporation. Notwithstanding the preceding sentence, the holding period of qualifying property that was distributed by an S corporation or an entity treated as a partnership to a person who was an owner, member or partner at the time of the distribution shall, for that person, include the amount of time that the S corporation or the entity held the property, regardless of whether the distribution was a liquidating distribution.

(45) As used in this section, "revenue-producing enterprise" means:

(a) The production, assembly, fabrication, manufacture, or processing of any agricultural, mineral or manufactured product;

(b) The storage, warehousing, distribution, or sale at wholesale of any products of agriculture, mining or manufacturing;

(c) The feeding of livestock at a feedlot;

(d) The operation of laboratories or other facilities for scientific, agricultural, animal husbandry, or industrial research, development, or testing.

(56) As used in this section, the term "real property" means land and includes the following:

(a) A "qualified conservation easement," as defined in section 2031(c) (8) (B) of the Internal Revenue Code, conveyed to a "Qualified Organization" as defined in section 170(h) of the Internal Revenue Code;

(b) Grazing permits or leases issued by the U.S. forest service, the bureau of land management or the Idaho department of lands, if such permit is transferred simultaneously with the transfer of the "base property"; and

(c) Any other property defined in section 1250(c) of the Internal Revenue Code as "section 1250 property" conveyed in perpetuity, the transfer of which would be required to be in writing by section 9-503, Idaho Code.

(67) Property that has been depreciated pursuant to section 1245 of the Internal Revenue Code is not eligible to be treated as real property for purposes of this deduction.

(8) Part-year resident and nonresident owners of multistate entities shall compute the allowable deduction as prescribed in the rules of the state tax commission.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2018.

Approved March 20, 2018

CHAPTER 187
(H.B. No. 518)

AN ACT

RELATING TO RECORDER'S FEES; AMENDING SECTION 31-3205, IDAHO CODE, TO REVISE PROVISIONS REGARDING RECORDER'S FEES.

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

SECTION 1. That Section 31-3205, Idaho Code, be, and the same is hereby amended to read as follows:

31-3205. RECORDER'S FEES. (1) The county recorder is allowed and may receive for his services, the following fees to be paid him by the party procuring his services:

(a) Except as otherwise set forth in this section, for recording every instrument, paper or notice, for the first page \$10.00
For each additional page \$3.00

(b) For recording each of the following types of instruments, provided such instrument is thirty (30) pages or less:

(i) Deeds, grants and conveyances transfers of title to real property \$15.00

(ii) Trust deeds or mortgages of real property, including fixture filings, security agreements and assignments of leases and rents if contained within the same instrument for recording \$45.00

(iii) Reconveyances of trust deeds, including reconveyances of trust deeds that include a substitution of trustee if contained within the same instrument for recording, and releases of mortgages \$15.00

(iv) Substitution of a trustee \$10.00

(v) Powers of attorney	\$25.00
<u>For each additional page beyond thirty (30) pages for an instrument listed in this paragraph</u>	<u>\$3.00</u>
(c) For electronic copies (as defined in subsection (2) of this section) requested on a recurring basis, for each page or image	\$.055¢
(d) For copies of any record or paper, for each page	\$1.00
(e) For each certificate under seal, when required	\$1.00
(f) For release or assignment where more than one (1) document is released or assigned in the same instrument, for each additional release or assignment	\$1.00
(g) For recording every town plat or map, for <u>the</u> first one hundred (100) lots or less	\$11.00
And for each additional lot	\$.055¢
(h) For taking acknowledgments, including seal	\$1.00
(i) For filing a survey, for each page	\$5.00
(j) For making a copy of a survey or highway right-of-way plat ...	\$4.00
(k) For issuing marriage license, filing, recording and indexing the certificate of marriage and taking and filing affidavits required in issuance of the license	\$11.00
(l) For administering an oath, including jurat	\$1.00
And certifying the same when required, <u>an</u> additional sum of	\$1.00
(m) For comparing and certifying a prepared copy of a file or record in his office, for each page	\$.50¢
(n) For each certificate under seal, <u>there</u> shall be an additional fee of	\$1.00
(2) Electronic copies shall include copies provided via internet download, on a compact disc, zip disc, floppy disc, or other electronic means. The county recorder shall provide electronic copies if the record is maintained in electronic form and if the person specifically requests an electronic copy.	
(3) For duplication of recorded documents in paper, microfilm or microfiche format requested on a recurring basis in excess of one hundred (100) pages, the fee shall be negotiated between the county recorder and the purchaser of records. The fee shall not exceed the costs to the county recorder for the retrieval and duplication of the record. These negotiated fees shall be recommended by the county recorder and approved by the board of county commissioners. Any existing agreements for duplication of paper, microfilm or microfiche documents in excess of one hundred (100) pages are hereby ratified and approved. Any negotiated fees shall remain in effect until such time as either party requests a review of the fee.	
(4) All instruments delivered to the county recorder for record shall be recorded rather than filed with the exception of plats, surveys, corner-stone markers and instruments under the <u>Uniform Commercial Code</u> .	
(5) For all other services as recorder, not enumerated herein, the fee fixed in the statute requiring the service or the same fee as allowed the clerk of the district court for like service.	
(6) A page shall not exceed fourteen (14) inches in length nor eight and one-half (8 1/2) inches in width. Each page shall be typewritten or be in legible writing. The recording fee to be charged for maps, sketches, drawings or other instruments except plats larger than the size permitted <u>above in this subsection</u> for a page shall be two cents (2¢) per square inch.	

CHAPTER 188
(H.B. No. 524)

AN ACT

RELATING TO FIRE PROTECTION DISTRICTS; AMENDING SECTION 31-1420, IDAHO CODE, TO PROVIDE THAT REAL PROPERTY MAY BE EXCHANGED FOR OTHER REAL PROPERTY OF EQUIVALENT VALUE AS DETERMINED BY THE BOARD OR SOLD.

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

SECTION 1. That Section 31-1420, Idaho Code, be, and the same is hereby amended to read as follows:

31-1420. PROCEDURE FOR SALE, CONVEYANCE AND DISPOSITION OF PROPERTY. Real or personal property of a fire protection district may be sold, conveyed and disposed of by its board of commissioners whenever the board finds and by resolution declares that the district no longer has use therefor, subject to the following procedure:

(1) If in the opinion of the board any such personal property does not exceed ten thousand dollars (\$10,000) in value, the same may be sold without independent valuations, notice or competitive bids.

(2) If in the opinion of the board any such personal property exceeds ten thousand dollars (\$10,000) in value, then the board shall select two (2) individuals independent of the board who have the knowledge and expertise to determine the value of the personal property to assess the value of the property. The property may then be sold at public or private sale to the highest bidder for cash at not less than its minimum valuation, after due notice. If the property cannot be sold for the minimum valuation after reasonable efforts have been made, the board may then sell the property for adequate and valuable consideration as determined by the board. Any individual selected by the board to assess the value of personal property shall not be eligible to acquire that property.

(3) All such real property shall be appraised by a certified appraiser who shall be selected by the board. It may then be exchanged for other real property of equivalent value as determined by the board or sold at public or private sale to the highest bidder for cash at not less than its appraised value, after due notice. If the property cannot be sold for the appraised value after reasonable efforts have been made, the board may then sell the property for adequate and valuable consideration as determined by the board.

(4) Due notice of sale shall be accomplished if the notice describes the property to be sold (legal description, if real property), states the appraised value thereof (by separate items, if so appraised), and specifies the time, place and conditions of sale.

(5) The notice shall be published in a newspaper having general circulation in the district at least twice, the first publication thereof to be not less than fifteen (15) days preceding the day of sale.

(6) If such property is sold on terms, the board may contract for the sale of the same for a period of years not exceeding ten (10) years, with an annual rate of interest on all deferred payments not to exceed twelve percent (12%) per annum. The title to all property sold on contract shall be retained in the name of the district until full payment has been made by the purchaser. Any property sold by the board under the provisions of this section, either for cash or on contract, shall be assessed by the county assessor in the same manner and upon the same basis of valuation as though the purchaser held a record title to the property so sold. The board shall have authority to cancel any contract of sale, pursuant to law, if the purchaser shall fail to comply with any of the terms of such contract, and retain all payments paid thereon. The board may by agreement with the purchaser modify or extend any

of the terms of any contracts of sale, but the total period of years shall not exceed ten (10) years.

(7) Upon final payment pursuant to the sale of such real property, the president and secretary, pursuant to resolution of the board, shall duly execute and deliver an appropriate deed to the purchaser, and upon the accomplishment of the sale of such personal property, the president and secretary, pursuant to resolution of the board, shall duly execute and deliver an appropriate bill of sale to the purchaser.

(8) In addition to any other powers granted by law, the board of fire commissioners may, at their discretion, grant to or exchange with the federal government, the state of Idaho, any political subdivision, or taxing district of the state of Idaho, with or without compensation, any real or personal property or any interest in such property owned by the fire district or acquired by tax deed, after adoption of a resolution that the grant or exchange of property is in the public interest. Such resolution may be made at any regularly or specially scheduled meeting of the board. Notice of such grant or exchange shall be made in the same manner as set forth in subsections (4) and (5) of this section. The fire protection district's execution and delivery of the deed conveying an interest in the property shall operate to discharge and cancel all levies, liens and taxes made or created for the benefit of the fire protection district and to cancel all titles or claims of title including claims of redemption to such real property asserted or existing at the time of such conveyance.

Approved March 20, 2018

CHAPTER 189
(H.B. No. 530)

AN ACT

RELATING TO COURTS; AMENDING CHAPTER 32, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-3201I, IDAHO CODE, TO PROVIDE FOR DISTRIBUTION OF PAYMENTS IN CRIMINAL CASES; AMENDING SECTION 19-5302, IDAHO CODE, TO REMOVE A PROVISION REGARDING RESTITUTION PRIORITY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 72-1025, IDAHO CODE, TO REMOVE A PROVISION REGARDING PRIORITY OF PAYMENT AND TO REMOVE SURPLUS VERBIAGE; AND AMENDING SECTION 72-1105, IDAHO CODE, TO REMOVE A PROVISION REGARDING PRIORITY OF PAYMENT.

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

SECTION 1. That Chapter 32, Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 31-3201I, Idaho Code, and to read as follows:

31-3201I. DISTRIBUTION OF PAYMENTS IN CRIMINAL CASES. When ordered by the court to make one (1) of the following payments in a criminal case, a defendant shall make the payment to the clerk of the court in which the judgment was entered. The judgment shall be satisfied accordingly by entry in the electronic docket of the court, and the clerk of the court shall remit daily all such payments to the county auditor who shall, at least monthly, distribute the payments received as required by statute. The distributions shall first completely satisfy the amounts due in the following order before distribution of payments for any other amounts owed to the court:

(1) Fees for each felony, misdemeanor and infraction paid pursuant to section 31-3201A(2), Idaho Code;

(2) Fines or reimbursements paid for the crime victims compensation account pursuant to section 72-1025, Idaho Code;

- (3) Misdemeanor probation supervision fees paid pursuant to section 31-3201D, Idaho Code;
- (4) County drug and mental health fund fees paid pursuant to section 31-3201E, Idaho Code;
- (5) Fines paid for the peace officer and detention officer temporary disability fund pursuant to section 72-1105, Idaho Code;
- (6) Restitution to victims of crime paid pursuant to section 19-5304, Idaho Code, if paid through the clerk of the court;
- (7) Community service fees paid pursuant to section 31-3201C, Idaho Code;
- (8) Victim notification fund fees paid pursuant to section 31-3204, Idaho Code;
- (9) Court technology fees paid pursuant to section 31-3201(5), Idaho Code;
- (10) Surcharge fees paid pursuant to section 31-3201H, Idaho Code;
- (11) Peace officers standards and training fees paid pursuant to section 31-3201B, Idaho Code;
- (12) Domestic violence court fees paid pursuant to section 32-1410, Idaho Code;
- (13) Criminal fines;
- (14) Reimbursement for public defender costs paid pursuant to section 19-854(7), Idaho Code;
- (15) Costs of prosecution ordered as a condition of probation and paid pursuant to section 19-2601, Idaho Code, and Idaho criminal rule 33(d)(2);
- (16) Domestic violence fines for the domestic violence project account paid pursuant to section 39-6312, Idaho Code;
- (17) Drug hotline fees paid pursuant to section 37-2735A, Idaho Code;
- (18) Additional fish and game fines for the search and rescue account paid pursuant to section 36-1405, Idaho Code;
- (19) County administrative surcharge fees paid pursuant to section 31-3201(3), Idaho Code;
- (20) Motor vehicle violation surcharge fees and ignition interlock and electronic monitoring fees paid pursuant to sections 18-8008 and 18-1810, Idaho Code;
- (21) Costs for toxicology testing paid pursuant to section 37-2732C(g), Idaho Code;
- (22) Costs incurred by law enforcement agencies in investigating violations of the racketeering act or money laundering and illegal investment provisions paid pursuant to section 37-2732(k), Idaho Code;
- (23) Restitution for the repair or replacement of simulated wildlife paid pursuant to section 36-1101(b)(8), Idaho Code; and
- (24) Abandoned vehicle fees paid pursuant to section 31-3201F, Idaho Code.

SECTION 2. That Section 19-5302, Idaho Code, be, and the same is hereby amended to read as follows:

19-5302. VICTIMS OF CRIME -- RESTITUTION PRIORITY. If a district court or a magistrate's division orders the defendant to pay restitution, the court shall order the defendant to pay such restitution to the victim or victims injured by the defendant's action. ~~There shall be a full restitution to such victim or victims before the court may order any payment be made by the defendant to any governmental entity; provided, however, the court may order the defendant to make the payments required in sections 20-225 and/or 20-614(7), Idaho Code, before any payment of restitution is made to the victim or victims.~~

SECTION 3. That Section 72-1025, Idaho Code, be, and the same is hereby amended to read as follows:

72-1025. FINES -- REIMBURSEMENTS -- PRIORITY--- DISPOSITION. (1) In addition to any other fine which may be imposed upon each person found guilty of criminal activity, the court shall impose a fine or reimbursement according to the following schedule, unless the court orders that such fine or reimbursement be waived only when the defendant is indigent and at the time of sentencing shows good cause for inability to pay and written findings to that effect are entered by the court:

(a) For each conviction or finding of guilt of each felony count, a fine or reimbursement of not less than seventy-five dollars (\$75.00) per felony count;

(b) For each conviction or finding of guilt of each misdemeanor count, a fine or reimbursement of thirty-seven dollars (\$37.00) per misdemeanor count;

(c) For each first-time conviction or finding of guilt of an infraction under section 23-604 or 23-949, Idaho Code, a fine or reimbursement of thirty-seven dollars (\$37.00) per count;

(d) In addition to any fine or reimbursement ordered under paragraph (a) or (b) of this subsection section, the court shall impose a fine or reimbursement of not less than three hundred dollars (\$300) per count for any conviction or finding of guilt for any sex offense, including, but not limited to, offenses pursuant to sections 18-1506, 18-1507, 18-1508, 18-1508A, 18-6101, 18-6605 and 18-6608, Idaho Code.

~~(2) The fine or reimbursement imposed under the provisions of this section shall have priority over all other judgments of the court, except an order to pay court costs.~~

~~(3) Notwithstanding the provisions of section 19-4705, Idaho Code, the fines or reimbursements imposed under the provisions of this section shall be paid into the crime victims compensation account.~~

SECTION 4. That Section 72-1105, Idaho Code, be, and the same is hereby amended to read as follows:

72-1105. FUND ESTABLISHED -- FINES -- PRIORITY--- DISPOSITION. (1) The peace officer and detention officer temporary disability fund is hereby created in the state treasury and shall be administered by the industrial commission for the purpose of providing a full rate of salary for any peace officer or detention officer who is injured while engaged in those activities as provided in section 72-1104, Idaho Code, and is thereby temporarily incapacitated from performing his or her duties. Moneys shall be paid into the fund as provided by law and shall consist of fines collected pursuant to subsection (2) of this section, appropriations, gifts, grants, donations and income from any other source. Moneys in the fund may be appropriated only for the purposes of this chapter, which shall include administrative expenses. The treasurer shall invest all idle moneys in the fund. Any interest earned on the investment of idle moneys shall be returned to the fund.

(2) In addition to any other fine that may be imposed upon each person found guilty of criminal activity, the court shall impose a fine in the amount of three dollars (\$3.00) for each conviction or finding of guilt of each felony or misdemeanor count, or for each conviction or finding of guilt of a first-time infraction under section 23-604 or 23-949, Idaho Code, unless the court orders that such fine be waived only when the defendant is indigent and at the time of sentencing shows good cause for inability to pay and written findings to that effect are entered by the court.

(3) ~~Except as otherwise provided in section 72-1025, Idaho Code, the fine imposed under this section shall have priority over all other judgments of the court, except an order to pay court costs.~~

(4) Notwithstanding the provisions of section 19-4705, Idaho Code, the fines imposed under this section shall be paid into the peace officer and detention officer temporary disability fund.

Approved March 20, 2018

CHAPTER 190
(H.B. No. 531)

AN ACT

RELATING TO ALCOHOL; REPEALING SECTION 2, CHAPTER 346, LAWS OF 2016, RELATING TO A SUNSET DATE.

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

SECTION 1. That Section 2, Chapter 346, Laws of 2016, be, and the same is hereby repealed.

Approved March 20, 2018

CHAPTER 191
(H.B. No. 546)

AN ACT

RELATING TO ANATOMICAL GIFTS; AMENDING SECTION 39-3404, IDAHO CODE, TO PROVIDE THAT A PERSON FIFTEEN YEARS OF AGE OR OLDER MAY MAKE AN ANATOMICAL GIFT WITH A PARENT'S OR GUARDIAN'S WRITTEN CONSENT.

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

SECTION 1. That Section 39-3404, Idaho Code, be, and the same is hereby amended to read as follows:

39-3404. WHO MAY MAKE ANATOMICAL GIFT BEFORE DONOR'S DEATH. Subject to section 39-3408, Idaho Code, an anatomical gift of a donor's body or part may be made during the life of the donor for the purpose of transplantation, therapy, research or education in the manner provided in section 39-3405, Idaho Code, by:

- (1) The donor, if the donor is an adult or if the donor is a minor and is:
 - (a) Emancipated; or
 - (b) At least ~~sixteen~~ fifteen (165) years of age, provided however, that if the donor is ~~sixteen~~ fifteen (165) years of age or older and less than eighteen (18) years of age, a parent or an adult guardian must consent in writing in the presence of the donor.
- (2) An agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift;
- (3) A parent of the donor, if the donor is an unemancipated minor; or
- (4) The donor's guardian.

Approved March 20, 2018

CHAPTER 192
(H.B. No. 548)

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-4303, IDAHO CODE, TO PROVIDE THAT BENEFITS PROVIDED BY A LONG-TERM CARE RIDER SHALL BE CONSIDERED THE SAME TYPE OF BENEFITS AS THE BASE LIFE INSURANCE POLICY OR ANNUITY CONTRACT TO WHICH IT RELATES; AMENDING SECTION 41-4308, IDAHO CODE, TO PROVIDE THAT THE IDAHO LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION MAY TERMINATE CERTAIN HEALTH BENEFIT PLANS UPON ENTRY OF AN ORDER OF LIQUIDATION WITH APPROVAL OF THE DIRECTOR; AND AMENDING SECTION 41-4309, IDAHO CODE, TO PROVIDE AN EXCEPTION FOR ALLOCATION OF CERTAIN CLASS B ASSESSMENTS AND TO PROVIDE FOR ALLOCATION OF CLASS B ASSESSMENTS FOR LONG-TERM CARE INSURANCE.

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

SECTION 1. That Section 41-4303, Idaho Code, be, and the same is hereby amended to read as follows:

41-4303. COVERAGE AND LIMITATIONS. (1) This chapter shall provide coverage for the policies and contracts specified in subsection (2) of this section:

(a) To persons, except for nonresident certificate holders under group policies or contracts who, regardless of where they reside, are the beneficiaries, assignees or payees of the persons covered under paragraph (b) of this subsection.

(b) To persons who are owners of or certificate holders under the policies or contracts, other than structured settlement annuities, and in each case who:

(i) Are residents; or

(ii) Are not residents, but only under all of the following conditions:

1. The insurer that issued the policies or contracts is domiciled in this state;

2. The states in which the persons reside have associations similar to the association created by this chapter; and

3. The persons are not eligible for coverage by an association in any other state due to the fact that the insurer was not licensed in the state at the time specified in the state's guaranty association law.

(c) For structured settlement annuities specified in subsection (2) of this section, paragraphs (a) and (b) of this subsection shall not apply, and this chapter shall, except as provided in paragraphs (d) and (e) of this subsection, provide coverage to a person who is a payee under a structured settlement annuity, or beneficiary of a payee if the payee is deceased, if the payee:

(i) Is a resident, regardless of where the contract owner resides; or

(ii) Is not a resident, but only under both of the following conditions:

1. (A) The contract owner of the structured settlement annuity is a resident; or

(B) The contract owner of the structured settlement annuity is not a resident; but the insurer that issued the structured settlement annuity is domiciled in this state; and the state in which the contract owner

resides has an association similar to the association created in this chapter; and

2. Neither the payee or beneficiary nor the contract owner is eligible for coverage by the association of the state in which the payee or contract owner resides.

(d) The provisions of this chapter shall not provide coverage to a person who is a payee or beneficiary of a contract owner resident of this state, if the payee or beneficiary is afforded any coverage by the association of another state.

(e) This chapter is intended to provide coverage to a person who is a resident of this state and, in special circumstances, to a nonresident. In order to avoid duplicate coverage, if a person who would otherwise receive coverage under this chapter is provided coverage under the laws of any other state, the person shall not be provided coverage under this chapter. In determining the application of the provisions of this paragraph in situations where a person could be covered by the association of more than one (1) state, whether as an owner, payee, beneficiary or assignee, the provisions of this chapter shall be construed in conjunction with other state laws to result in coverage by only one (1) association.

(2) (a) The provisions of this chapter shall provide coverage to the persons specified in subsection (1) of this section for direct, non-group life, health or annuity policies or contracts and for certificates under direct group policies and contracts and for supplemental contracts to any of these, except as limited by this chapter. Annuity contracts and certificates under group annuity contracts include allocated funding agreements, structured settlement annuities and any immediate or deferred annuity contracts.

(b) The provisions of this chapter shall not provide coverage for:

(i) A portion of a policy or contract not guaranteed by the insurer, or under which the risk is borne by the policy or contract owner;

(ii) A policy or contract of reinsurance, unless assumption certificates have been issued pursuant to the reinsurance policy or contract;

(iii) A portion of a policy or contract to the extent that the rate of interest on which it is based, or the interest rate, crediting rate or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value:

1. Averaged over the period of four (4) years prior to the date on which the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier, exceeds the rate of interest determined by subtracting two (2) percentage points from Moody's corporate bond yield average averaged for that same four (4) year period or for such lesser period if the policy or contract was issued less than four (4) years before the member insurer becomes an impaired or insolvent insurer under the provisions of this chapter, whichever is earlier; and

2. On and after the date on which the member insurer becomes an impaired or insolvent insurer under the provisions of this chapter, whichever is earlier, exceeds the rate of interest determined by subtracting three (3) percentage points from Moody's corporate bond yield average as most recently available;

(iv) A portion of a policy or contract issued to a plan or program of an employer, association or other person to provide life, health or annuity benefits to its employees, members or others, to

the extent that the plan or program is self-funded or uninsured including, but not limited to, benefits payable by an employer, association or other person under:

1. A multiple employer welfare arrangement as defined in section 3(40) of the employee retirement income security act of 1974, 29 U.S.C. section 1002(40);
 2. A minimum premium group insurance plan;
 3. A stop-loss group insurance plan; or
 4. An administrative services only contract;
- (v) A portion of a policy or contract to the extent that it provides for:
1. Dividends or experience rating credits;
 2. Voting rights; or
 3. Payment of any fees or allowances to any person, including the policy or contract owner, in connection with the service to or administration of the policy or contract;
- (vi) A policy or contract issued in this state by a member insurer at a time when it was not licensed or did not have a certificate of authority to issue the policy or contract in this state;
- (vii) A portion of a policy or contract to the extent that the assessments required in section 41-4309, Idaho Code, with respect to the policy or contract are preempted by federal or state law;
- (viii) An obligation that does not arise under the express written terms of the policy or contract issued by the insurer to the contract owner or policy owner, including without limitation:
1. Claims based on marketing materials;
 2. Claims based on side letters, riders or other documents that were issued by the insurer without meeting applicable policy form filing or approval requirements;
 3. Misrepresentations of or regarding policy benefits;
 4. Extra-contractual claims; or
 5. A claim for penalties or consequential or incidental damages;
- (ix) A contractual agreement that establishes the member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by the benefit plan or its trustee, which in each case is not an affiliate of the member insurer;
- (x) An unallocated annuity contract;
- (xi) A portion of a policy or contract to the extent it provides for interest or other changes in value to be determined by the use of an index or other external reference stated in the policy or contract, but which have not been credited to the policy or contract, or as to which the policy or contract owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired or insolvent insurer under the provisions of this chapter, whichever is earlier. If a policy's or contract's interest or changes in value are credited less frequently than annually, then for purposes of determining the values that have been credited and are not subject to forfeiture under this subparagraph, the interest or change in value determined by using the procedures defined in the policy or contract will be credited as if the contractual date of crediting interest or changing values was the date of impairment or insolvency, whichever is earlier, and will not be subject to forfeiture; and
- (xii) A policy or contract providing any hospital, medical, prescription drug or other health care benefits pursuant to 42 U.S.C.

part C or 42 U.S.C. part D, commonly known as medicare parts C and D, or any regulations issued pursuant thereto.

(3) The benefits that the association may become obligated to cover shall in no event exceed the lesser of:

(a) The contractual obligations for which the insurer is liable or would have been liable if it were not an impaired or insolvent insurer; or

(b) Subject to the aggregate per life limitation in paragraph (c) of this subsection with respect to one (1) policy or contract:

(i) Three hundred thousand dollars (\$300,000) in life insurance death benefits, but not more than one hundred thousand dollars (\$100,000) in net cash surrender and net cash withdrawal values for life insurance;

(ii) Three hundred thousand dollars (\$300,000) in health insurance claims or benefit payments or one hundred thousand dollars (\$100,000) in net cash surrender and net cash withdrawal values for health benefits, except for major medical insurance as defined in section 41-4305, Idaho Code, and as provided for in subparagraph (iii) of this paragraph;

(iii) Five hundred thousand dollars (\$500,000) for major medical insurance as defined in section 41-4305, Idaho Code;

(iv) Two hundred fifty thousand dollars (\$250,000) in the present value of annuity benefits, including net cash surrender and net cash withdrawal values;

(v) With respect to each payee of a structured settlement annuity, or beneficiary or beneficiaries of the payee if deceased, two hundred fifty thousand dollars (\$250,000) in present value annuity benefits, in the aggregate, including net cash surrender and net cash withdrawal values;

(c) However, in no event shall the association be obligated to cover more than:

(i) An aggregate of three hundred thousand dollars (\$300,000) in benefits with respect to any one (1) life under paragraph (b) of this subsection, except with respect to benefits for major medical insurance as provided in paragraph (b) (iii) of this subsection, in which case the aggregate liability of the association shall not exceed five hundred thousand dollars (\$500,000) with respect to any one (1) life; or

(ii) With respect to one (1) owner of multiple non-group policies of life insurance, whether the policy owner is an individual, firm, corporation or other person, and whether the persons insured are officers, managers, employees or other persons, more than five million dollars (\$5,000,000) in benefits, regardless of the number of policies and contracts held by the owner; or

(d) The limitations set forth in this subsection are limitations on the benefits for which the association is obligated before taking into account either its subrogation and assignment rights or the extent to which those benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies. The costs of the association's obligations under the provisions of this chapter may be met by the use of assets attributable to covered policies or reimbursed to the association pursuant to its subrogation and assignment rights.

(e) For purposes of this act, benefits provided by a long-term care rider to a life insurance policy or annuity contract shall be considered the same type of benefits as the base life insurance policy or annuity contract to which it relates.

(4) In performing its obligations to provide coverage under section 41-4308, Idaho Code, the association shall not be required to guarantee, assume, reinsure or perform, or cause to be guaranteed, assumed, reinsured

or performed, the contractual obligations of the insolvent or impaired insurer under a covered policy or contract that do not materially affect the economic values or economic benefits of the covered policy or contract.

SECTION 2. That Section 41-4308, Idaho Code, be, and the same is hereby amended to read as follows:

41-4308. POWERS AND DUTIES OF THE ASSOCIATION. (1) If a member insurer is an impaired insurer, the association may, in its discretion, and subject to any conditions imposed by the association that do not impair the contractual obligations of the impaired insurer and that are approved by the director:

(a) Guarantee, assume or reinsure, or cause to be guaranteed, assumed, or reinsured, any or all of the policies or contracts of the impaired insurer; and

(b) Provide such moneys, pledges, loans, notes, guarantees or other means as are proper to effectuate paragraph (a) of this subsection and assure payment of the contractual obligations of the impaired insurer pending action under paragraph (a) of this subsection.

(2) If a member insurer is an insolvent insurer, the association shall, in its discretion, either:

(a) (i) 1. Guarantee, assume or reinsure, or cause to be guaranteed, assumed or reinsured, the policies or contracts of the insolvent insurer; or

2. Assure payment of the contractual obligations of the insolvent insurer; and

(ii) Provide moneys, pledges, loans, notes, guarantees, or other means reasonably necessary to discharge the association's duties; or

(b) Provide benefits and coverages in accordance with the following provisions:

(i) With respect to life and health insurance policies and annuities, assure payment of benefits for premiums identical to the premiums and benefits, except for terms of conversion and renewability, that would have been payable under the policies or contracts of the insolvent insurer, for claims incurred:

1. With respect to group policies and contracts, not later than the earlier of the next renewal date under those policies or contracts or forty-five (45) days, but in no event less than thirty (30) days, after the date on which the association becomes obligated with respect to the policies and contracts;

2. With respect to non-group policies, contracts, and annuities not later than the earlier of the next renewal date, if any, under the policies or contracts or one (1) year, but in no event less than thirty (30) days, from the date on which the association becomes obligated with respect to the policies or contracts;

(ii) Make diligent efforts to provide all known insureds or annuitants, for non-group policies and contracts, or group policy owners with respect to group policies and contracts, thirty (30) days' notice of the termination, pursuant to subparagraph (i) of this paragraph, of the benefits provided;

(iii) With respect to non-group life and health insurance policies and annuities covered by the association, make available to each known insured or annuitant, or owner if other than the insured or annuitant, and with respect to an individual formerly insured or formerly an annuitant under a group policy who is not eligible for replacement group coverage, make available substitute cover-

age on an individual basis in accordance with the provisions of subparagraph (iv) of this paragraph, if the insureds or annuitants had a right under law or the terminated policy or annuity to convert coverage to individual coverage or to continue an individual policy or annuity in force until a specified age or for a specified time, during which the insurer had no right unilaterally to make changes in any provision of the policy or annuity or had a right only to make changes in premium by class:

(iv) 1. In providing the substitute coverage required under subparagraph (iii) of this paragraph, the association may offer either to reissue the terminated coverage or to issue an alternative policy;

2. Alternative or reissued policies shall be offered without requiring evidence of insurability, and shall not provide for any waiting period or exclusion that would not have applied under the terminated policy; and

3. The association may reinsure any alternative or reissued policy;

(v) 1. Alternative policies adopted by the association shall be subject to the approval of the domiciliary insurance director. The association may adopt alternative policies of various types for future issuance without regard to any particular impairment or insolvency;

2. Alternative policies shall contain at least the minimum statutory provisions required in this state and provide benefits that shall not be unreasonable in relation to the premium charged. The association shall set the premium in accordance with a table of rates that it shall adopt. The premium shall reflect the amount of insurance to be provided and the age and class of risk of each insured, but shall not reflect any changes in the health of the insured after the original policy was last underwritten; and

3. Any alternative policy issued by the association shall provide coverage of a type similar to that of the policy issued by the impaired or insolvent insurer, as determined by the association;

(vi) If the association elects to reissue terminated coverage at a premium rate different from that charged under the terminated policy, the premium shall be set by the association in accordance with the amount of insurance provided and the age and class of risk, subject to approval of the domiciliary insurance director;

(vii) The association's obligations with respect to coverage under any policy of the impaired or insolvent insurer or under any reissued or alternative policy shall cease on the date the coverage or policy is replaced by another similar policy by the policy owner, the insured or the association; and

(viii) When proceeding under this paragraph (b) of this subsection with respect to a policy or contract carrying guaranteed minimum interest rates, the association shall assure the payment or crediting of a rate of interest consistent with section 41-4303(2)(b)(iii), Idaho Code.

(c) With respect to health benefit plans that are subject to state or federal guaranteed issue requirements, the association may terminate the policies upon entry of an order of liquidation with approval of the director.

(3) Nonpayment of premiums within thirty-one (31) days after the date required under the terms of any guaranteed, assumed, alternative or reissued policy or contract or substitute coverage shall terminate the association's obligations under the policy or coverage under this chapter with respect to

the policy or coverage, except with respect to any claims incurred or any net cash surrender value which may be due in accordance with the provisions of this chapter.

(4) Premiums due for coverage after entry of an order of liquidation of an insolvent insurer shall belong to and be payable at the direction of the association. If the liquidator of an insolvent insurer requests, the association shall provide a report to the liquidator regarding such premium collected by the association. The association shall be liable for unearned premiums due to policy or contract owners arising after the entry of the order.

(5) The protection provided by this chapter shall not apply where any guarantee protection is provided to residents of this state by the laws of the domiciliary state or jurisdiction of the impaired or insolvent insurer other than this state.

(6) In carrying out its duties under subsection (2) of this section, the association may:

(a) Subject to approval by a court in this state, impose permanent policy or contract liens in connection with a guarantee, assumption or reinsurance agreement, if the association finds that the amounts which can be assessed under this chapter are less than the amounts needed to assure full and prompt performance of the association's duties under this chapter, or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of such permanent policy or contract liens, to be in the public interest; or

(b) Subject to approval by a court in this state, impose temporary moratoriums or liens on payments of cash values and policy loans, or any other right to withdraw funds held in conjunction with policies or contracts, in addition to any contractual provisions for deferral of cash or policy loan value. In addition, in the event of a temporary moratorium or moratorium charge imposed by the receivership court on payment of cash values or policy loans, or on any other right to withdraw funds held in conjunction with policies or contracts, out of the assets of the impaired or insolvent insurer, the association may defer the payment of cash values, policy loans or other rights by the association for the period of the moratorium or moratorium charge imposed by the receivership court, except for claims covered by the association to be paid in accordance with a hardship procedure established by the liquidator or rehabilitator and approved by the receivership court.

(7) A deposit in this state, held pursuant to law or required by the director for the benefit of creditors, including policy owners, not turned over to the domiciliary liquidator upon the entry of a final order of liquidation or order approving a rehabilitation plan of an insurer domiciled in this state or in a reciprocal state, pursuant to chapter 8, title 41, Idaho Code, shall be promptly paid to the association. The association shall be entitled to retain a portion of any amount so paid to it equal to the percentage determined by dividing the aggregate amount of policy owners' claims related to that insolvency for which the association has provided statutory benefits by the aggregate amount of all policy owners' claims in this state related to that insolvency and shall remit to the domiciliary receiver the amount so paid to the association less the amount retained pursuant to this subsection. Any amount so paid to the association and retained by it shall be treated as a distribution of state assets pursuant to applicable state receivership law dealing with early access disbursements.

(8) If the association fails to act within a reasonable period of time with respect to an insolvent insurer, as provided in subsection (2) of this section, the director shall have the powers and duties of the association under this chapter with respect to the insolvent insurer.

(9) The association may render assistance and advice to the director, upon the director's request, concerning rehabilitation, payment of claims,

continuance of coverage or the performance of other contractual obligations of an impaired or insolvent insurer.

(10) The association shall have standing to appear or intervene before a court or agency in this state with jurisdiction over an impaired or insolvent insurer concerning which the association is or may become obligated under this chapter or with jurisdiction over any person or property against which the association may have rights through subrogation or otherwise. Standing shall extend to all matters germane to the powers and duties of the association including, but not limited to, proposals for reinsuring, modifying or guaranteeing the policies or contracts of the impaired or insolvent insurer and the determination of the policies or contracts and contractual obligations. The association shall also have the right to appear or intervene before a court or agency in another state with jurisdiction over an impaired or insolvent insurer for which the association is or may become obligated or with jurisdiction over any person or property against whom the association may have rights through subrogation or otherwise.

(11) (a) A person receiving benefits under this chapter shall be deemed to have assigned the rights under, and any causes of action against any person for losses arising under, resulting from or otherwise relating to the covered policy or contract to the association to the extent of the benefits received because of this chapter, whether the benefits are payments of, or on account of, contractual obligations, continuation of coverage or provision of substitute or alternative coverages. The association may require a written instrument of assignment to it of such rights and cause of action by any payee, policy or contract owner, beneficiary, insured or annuitant as a condition precedent to the receipt of any right or benefits conferred by this chapter upon the person.

(b) The subrogation rights of the association under this subsection shall have the same priority against the assets of the impaired or insolvent insurer as that possessed by the person entitled to receive benefits under this chapter.

(c) In addition to paragraphs (a) and (b) of this subsection, the association shall have all common law rights of subrogation and any other equitable or legal remedy that would have been available to the impaired or insolvent insurer or owner, beneficiary or payee of a policy or contract with respect to the policy or contract, including without limitation, in the case of a structured settlement annuity, any rights of the owner, beneficiary or payee of the annuity, to the extent of benefits received pursuant to this chapter, against a person originally or by succession responsible for the losses arising from the personal injury relating to the annuity or payment therefor, excepting any such person responsible solely by reason of serving as an assignee in respect of a qualified assignment under Internal Revenue Code, section 130.

(d) If the preceding provisions of this subsection are invalid or ineffective with respect to any person or claim for any reason, the amount payable by the association with respect to the related covered obligations shall be reduced by the amount realized by any other person with respect to the person or claim that is attributable to the policies, or portion thereof, covered by the association.

(e) If the association has provided benefits with respect to a covered obligation and a person recovers amounts as to which the association has rights as described in paragraphs (a) through (d) of this subsection, the person shall pay to the association the portion of the recovery attributable to the policies, or portion thereof, covered by the association.

(12) In addition to the rights and powers elsewhere in this chapter, the association may:

(a) Enter into such contracts as are necessary or proper to carry out the provisions and purposes of this chapter;

(b) Sue or be sued, including taking any legal actions necessary or proper to recover any unpaid assessments under section 41-4309, Idaho Code, and to settle claims or potential claims against it;

(c) Borrow money to effect the purposes of this chapter; any notes or other evidence of indebtedness of the association not in default shall be legal investments for domestic insurers and may be carried as admitted assets;

(d) Employ or retain such persons as are necessary or appropriate to handle the financial transactions of the association, and to perform such other functions as become necessary or proper under this chapter;

(e) Take such legal action as may be necessary or appropriate to avoid or recover payment of improper claims;

(f) Exercise, for the purposes of this chapter and to the extent approved by the director, the powers of a domestic life or health insurer, but in no case may the association issue insurance policies or annuity contracts other than those issued to perform its obligations under this chapter;

(g) Reorganize itself with the prior written approval of the director from a nonprofit association into a corporation or other legal form of nonprofit entity permitted by the laws of the state of Idaho;

(h) Request information from a person seeking coverage from the association in order to aid the association in determining its obligations under this chapter with respect to the person, and the person shall promptly comply with the request; and

(i) Take other necessary or appropriate action to discharge its duties and obligations under this chapter or to exercise its powers under this chapter.

(13) The association may join an organization of one (1) or more other state associations of similar purposes, to further the purposes and administer the powers and duties of the association.

(14) With respect to covered policies for which the association becomes obligated after an entry of an order of liquidation, the association may elect to succeed to the rights of the insolvent insurer arising after the order of liquidation under any contract of reinsurance to which the insolvent insurer was a party, to the extent that such contract provides coverage for losses occurring after the date of the order of liquidation. As a condition to making this election, the association must pay all unpaid premiums due under the contract for coverage relating to periods before and after the date of the order of liquidation.

(15) The board of directors of the association shall have discretion and may exercise reasonable business judgment to determine the means by which the association is to provide the benefits of this chapter in an economical and efficient manner.

(16) Where the association has arranged or offered to provide the benefits of this chapter to a covered person under a plan or arrangement that fulfills the association's obligations under this chapter, the person shall not be entitled to benefits from the association in addition to or other than those provided under the plan or arrangement.

(17) Venue in a suit against the association arising under this chapter shall be in Ada county. The association shall not be required to give an appeal bond in an appeal that relates to a cause of action arising under the provisions of this chapter.

(18) In carrying out its duties in connection with guaranteeing, assuming or reinsuring policies or contracts under subsection (1) or (2) of this section, the association may, subject to approval of the receivership court, issue substitute coverage for a policy or contract that provides an interest rate, crediting rate or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating

returns or changes in value by issuing an alternative policy or contract in accordance with the following provisions:

- (a) In lieu of the index or other external reference provided for in the original policy or contract, the alternative policy or contract provides for:
 - (i) A fixed interest rate;
 - (ii) Payment of dividends with minimum guarantees; or
 - (iii) A different method for calculating interest or changes in value;
- (b) There is no requirement for evidence of insurability, waiting period or other exclusion that would not have applied under the replaced policy or contract; and
- (c) The alternative policy or contract is substantially similar to the replaced policy or contract in all other material terms.

SECTION 3. That Section 41-4309, Idaho Code, be, and the same is hereby amended to read as follows:

41-4309. ASSESSMENTS. (1) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers, separately for each account, at such time and for such amounts as the board of directors finds necessary. Assessments shall be due not less than thirty (30) days after prior written notice to the member insurers and shall accrue interest at eight percent (8%) per annum on and after the due date.

(2) There shall be two (2) classes of assessments:

(a) Class A assessments shall be authorized and called for the purpose of meeting administrative and other expenses. Class A assessments may be authorized and called whether or not related to a particular impaired or insolvent insurer.

(b) Class B assessments shall be authorized and called to the extent necessary to carry out the powers and duties of the association under section 41-4308, Idaho Code, with regard to an impaired or an insolvent insurer.

(3) (a) The amount of a class A assessment shall be determined by the board of directors and may be authorized and called on a pro rata or non-pro rata basis. If pro rata, the board of directors may provide that it be credited against future class B assessments. The total of all non-pro rata assessments shall not exceed three hundred dollars (\$300) per member insurer in any one (1) calendar year.

(b) The amount of a class B assessment, except for assessments related to long-term care insurance, shall be allocated for assessment purposes among the accounts pursuant to an allocation formula, which may be based on the premiums or reserves of the impaired or insolvent insurer or any other standard deemed by the board of directors in its sole discretion as being fair and reasonable under the circumstances.

(c) The amount of a class B assessment for long-term care insurance shall be allocated according to a methodology selected by the association and approved by the director, which methodology shall provide for fifty percent (50%) of the assessment to be allocated to health member insurers and fifty percent (50%) to be allocated to life and annuity member insurers.

(bd) Class B assessments against member insurers for each account shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies covered by each account for the calendar year preceding the assessments bears to such premiums received on business in this state for the calendar year preceding the assessment by all assessed member insurers.

(ee) Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer shall not be authorized or called until necessary to implement the purposes of this chapter. Classification of assessments under this subsection and subsection (2) of this section and computation of assessments under this subsection shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible. The association shall notify each member insurer of its anticipated pro rata share of an authorized assessment not yet called within one hundred eighty (180) days after the assessment is authorized.

(4) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board of directors, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated, or deferred in whole or in part, the amount by which the assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. Once the conditions that caused a deferral have been removed or rectified, the member insurer shall pay all assessments that were deferred pursuant to a repayment plan approved by the association.

(5) (a) The total of all class B assessments authorized by the association with respect to a member insurer for each account shall not in one (1) calendar year exceed two percent (2%) of such insurer's premiums received in this state during the calendar year preceding the assessment on the policies covered by the account. If the maximum assessment, together with the other assets of the association in an account, does not provide in any one (1) year in an account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by this chapter.

(b) The board of directors may provide in the plan of operation a method of allocating funds among claims, whether relating to one (1) or more impaired or insolvent insurers, when the maximum assessment will be insufficient to cover anticipated claims.

(6) The board of directors may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to that account, the amount by which the assets of the account exceed the amount the board of directors finds is necessary to carry out during the coming year the obligations of the association with regard to that account, including assets accruing from assignment, subrogation, net realized gains and income from investments.

A reasonable amount, as determined by the board of directors in its discretion, may be retained by the association in any account to provide funds for the continuing and future expenses of the association and for future loss claims.

(7) It shall be proper for any member insurer, in determining its premium rates and policy owner dividends as to any kind of insurance within the scope of this chapter, to consider the amount reasonably necessary to meet its assessment obligations under this chapter.

(8) The association shall issue to each insurer paying an assessment under this chapter, other than a class A assessment, a certificate of contribution in a form prescribed by the director for the amount of the assessment so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in such form and for such amount, if any, and period of time as the director may approve.

(9) (a) A member insurer that wishes to protest all or part of an assessment shall pay when due the full amount of the assessment as set forth in the notice provided by the association. The payment shall be

available to meet association obligations during the pendency of the protest or any subsequent appeal. Payment shall be accompanied by a statement in writing that the payment is made under protest and setting forth a brief statement of the grounds for the protest.

(b) Within sixty (60) days following the payment of an assessment under protest by a member insurer, the association shall notify the member insurer in writing of its determination with respect to the protest unless the association notifies the member insurer that additional time is required to resolve the issues raised by the protest.

(c) Within thirty (30) days after a final decision has been made, the association shall notify the protesting member insurer in writing of that final decision. Within sixty (60) days of receipt of notice of the final decision, the protesting member insurer may appeal that final action to the director.

(d) In the alternative to rendering a final decision with respect to a protest based on a question regarding the assessment base, the association may refer protests to the director for a final decision, with or without a recommendation from the association.

(e) If the protest or appeal on the assessment is upheld, the amount paid in error or excess shall be returned to the member insurer.

(10) The association may request information of member insurers in order to aid in the exercise of its power under this section, and member insurers shall promptly comply with the request.

Approved March 20, 2018

CHAPTER 193

(H.B. No. 550, As Amended)

AN ACT

RELATING TO FLOOD CONTROL DISTRICTS; AMENDING SECTION 42-3109, IDAHO CODE, TO PROVIDE FOR THE REMOVAL OF A COMMISSIONER BY THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES.

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

SECTION 1. That Section 42-3109, Idaho Code, be, and the same is hereby amended to read as follows:

42-3109. BOARD MEMBERS -- APPOINTMENT -- BOND OF COMMISSIONERS -- OATH -- REMOVAL. The order of the director organizing said district shall name the members of the board without regard to political affiliation. Each division of the district shall be represented by one (1) commissioner who shall be a qualified voter within the division which he represents, and a resident and qualified elector of the county in which he resides.

The members of the board of the district, appointed as aforesaid, shall be entitled to enter upon the duties of their office upon qualification as county officers are required to qualify, and upon each commissioner giving a bond to the state for the benefit of said district for the faithful performance of his duties as such commissioner in the sum of five thousand dollars (\$5,000) with one (1) or more sureties, or a surety bond, the premium for which shall be a lawful expenditure of the district, either of which shall be approved by the judge of the district court wherein the commissioner resides; provided, the judge of the district court, upon application and proper showing by the board may enter an order reducing the amount of the bond to such sum as may appear to him to be reasonable and adequate under the showing made. The commissioners shall take the oath of office and file their bonds within fifteen (15) days after they are appointed and they shall hold

office until their successors are duly appointed and qualified as in this act provided. The bonds of the commissioners shall be filed with the clerk of the district court of the county in which the office of the district is located and kept in trust by said clerk of the district court.

Immediately after their appointment and the filing and approval of their bonds the commissioners shall organize themselves into a board, as in this act provided, and shall by lot determine the terms of their office, which shall be one (1), two (2) and three (3) years, respectively. Annually thereafter the director shall appoint the commissioner, or commissioners, to succeed those whose terms of office are expiring. Such appointments shall be for three (3) years, provided that each division of the district shall be represented by one (1) commissioner who shall be a qualified voter within the division which he represents, and a resident and qualified elector of the county in which he resides.

The director may remove a commissioner for neglect of duty, misconduct or malfeasance or inability to perform the duties of a commissioner, or if the commissioner is no longer a resident of the division from which appointed. The director may appoint a successor for the unexpired term.

Approved March 20, 2018

CHAPTER 194
(H.B. No. 559)

AN ACT

RELATING TO PROPERTY EXEMPT FROM TAXATION; AMENDING CHAPTER 13, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-1305C, IDAHO CODE, TO PROVIDE FOR LEGISLATIVE INTENT, TO PROVIDE FOR A PROVISIONAL PROPERTY TAX EXEMPTION ON PROPERTY THAT IS UNDER CONSTRUCTION OR RENOVATION FOR A TAX EXEMPT PURPOSE, TO PROVIDE FOR THE REVOCATION OF THE PROVISIONAL EXEMPTION, TO PROVIDE FOR A REFUND OF TAXES THAT WERE COLLECTED ON A TAX EXEMPT PROPERTY AND TO PROVIDE FOR REFUND PROCEDURES; AMENDING SECTION 63-301A, IDAHO CODE, TO PROVIDE THAT THE NEW CONSTRUCTION ROLL SHALL NOT INCLUDE ANY TAXABLE MARKET VALUE ATTRIBUTABLE TO THE CONSTRUCTION OF PROPERTY WITH A PROVISIONAL EXEMPTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-602, IDAHO CODE, TO PROVIDE THAT A PROPERTY OWNER MAY APPLY FOR A PROVISIONAL PROPERTY TAX EXEMPTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-802, IDAHO CODE, TO PROVIDE THAT THE AMOUNT OF PROPERTY TAX REVENUES TO FINANCE AN ANNUAL BUDGET DOES NOT INCLUDE ANY PROPERTY TAXES THAT WERE COLLECTED AND REFUNDED ON PROPERTY THAT IS EXEMPT FROM TAXATION BUT SHALL INCLUDE MONEYS RECEIVED AS RECOVERY OF PROPERTY TAX FOR A REVOKED PROVISIONAL PROPERTY TAX EXEMPTION 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 Chapter 13, 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 63-1305C, Idaho Code, and to read as follows:

63-1305C. TAXATION AND REFUND OF PROPERTY TAXES COLLECTED ON A TAX EXEMPT PROPERTY. (1) It is the intent of the legislature that property that is being constructed or renovated to fulfill a purpose that is exempt from taxation under the constitution or the laws of Idaho shall not be subject to property tax during the period of construction or renovation preparatory to its completion for a tax exempt use.

(2) A property owner may apply to the board of county commissioners for a provisional property tax exemption at the time that a building permit is applied for or at the time that construction or renovation of the property begins, whichever is earlier, or at any time thereafter during construction or renovation of the property. If the board of county commissioners finds that the intended use of the property, once construction or renovation has been completed, qualifies for a property tax exemption under the constitution or the laws of the state of Idaho, it shall grant a provisional property tax exemption, conditioned on the achievement of the intended tax exempt purpose. Any property with a provisional property tax exemption shall not be included on the county assessor's new construction roll, and no taxes shall be assessed on the property during the period of its exemption.

(3) Once construction or renovation of a property with a provisional property tax exemption has been completed, the board of county commissioners shall review the tax exempt status of the completed property. In the event that the property does not qualify for a tax exemption, the board of county commissioners shall revoke the provisional property tax exemption and the property owner shall be liable for back taxes that would have been due on the property during construction, if not for the granting of the provisional property tax exemption. Property that is actually used for its intended tax exempt purpose shall be granted a property tax exemption by the board of county commissioners, if such approval is required under section 63-602, Idaho Code.

(4) In the event that property taxes have been assessed and collected on a property during the time that it qualified for a provisional property tax exemption and whose owner applied for a provisional property tax exemption during construction or renovation, the property owner may apply to the board of county commissioners for a refund of the property taxes within five (5) years of the payment of such taxes. The board of county commissioners shall order a refund of any property taxes imposed on a tax exempt property. The county commissioners shall refund the collected taxes to the owner within forty-five (45) days of a finding by the county commissioners or of an order by the board of tax appeals or a court that the taxes should not have been collected on the property. If the property is only partially exempt, the county commissioners may apply the amount to be refunded as a credit against taxes due from the taxpayer in the following year or may use a combination of both a payment and a credit to effect the refund.

(5) As used in this section, "refund" includes property tax described in subsection (4) of this section found by the county commissioners, the board of tax appeals or a court to have been overpaid and not lawfully due, interest due on the refund of such tax, costs and any other amounts ordered paid by a court or the board of tax appeals.

(6) In the event a refund is paid, payments must be made by warrants drawn on the county's current expense fund by the county auditor. The auditor shall apportion the amount of property taxes canceled as credit to the tax collector. The auditor shall charge the various funds and taxing districts with their proportionate share of the refund and credit the current expense fund.

(7) If a credit is given the following year, the credit shall be allowed against actual property taxes assessed to the taxpayer by the taxing districts that received the taxes being refunded.

(8) Amounts equal to the refunds or credits allowed in this section may not be included in amounts certified pursuant to sections 63-802 through 63-807, Idaho Code.

SECTION 2. That Section 63-301A, Idaho Code, be, and the same is hereby amended to read as follows:

63-301A. NEW CONSTRUCTION ROLL. (1) The county assessor shall prepare a new construction roll, which shall be in addition to the property roll, which new construction roll shall show:

- (a) The name of the taxpayer;
- (b) The description of the new construction, suitably detailed to meet the requirements of the individual county;
- (c) A description of the land and its change in use, suitably detailed to meet the needs of the individual county;
- (d) The amount of taxable market value added to the property on the current year's property roll that is directly the result of new construction or a change in use of the land or both;
- (e) The amount of taxable market value added as provided in subsection (3) (g) of this section as a result of dissolution of any revenue allocation area;
- (f) The amount of taxable market value to be deducted to reflect the adjustments required in paragraphs (f) (i), (f) (ii), (f) (iii) and (f) (iv) of this subsection:
 - (i) Any board of tax appeals or court-ordered value change, if property has a taxable value lower than that shown on any new construction roll in any one (1) of the immediate five (5) tax years preceding the current tax year;
 - (ii) Any reduction in value resulting from correction of value improperly included on any previous new construction roll as a result of double or otherwise erroneous assessment;
 - (iii) Any reduction in value, in any one (1) of the immediate five (5) tax years preceding the current tax year, resulting from a change of land use classification;
 - (iv) Any reduction in value resulting from the exemption provided in section 63-602W(4), Idaho Code, in any one (1) of the immediate five (5) tax years preceding the current tax year.

(2) As soon as possible, but in any event by no later than the first Monday in June, the new construction roll shall be certified to the county auditor and a listing showing the amount of value on the new construction roll in each taxing district or unit be forwarded to the state tax commission on or before the fourth Monday in July. Provided however, the value shown in subsection (3) (f) of this section shall be reported to the appropriate county auditor by the state tax commission by the third Monday in July and the value sent by the county auditor to each taxing district. The value established pursuant to subsection (3) (f) of this section is subject to correction by the state tax commission until the first Monday in September and any such corrections shall be sent to the appropriate county auditor, who shall notify any affected taxing districts.

(3) The value shown on the new construction roll shall include the taxable market value increase from:

- (a) Construction of any new structure that previously did not exist; or
- (b) Additions or alterations to existing nonresidential structures; or
- (c) Installation of new or used manufactured housing that did not previously exist within the county; or
- (d) Change of land use classification; or
- (e) Property newly taxable as a result of loss of the exemption provided by section 63-602W(3) or (4), Idaho Code; or
- (f) The construction of any improvement or installation of any equipment used for or in conjunction with the generation of electricity and the addition of any improvement or equipment intended to be so used, except property that has a value allocated or apportioned pursuant to section 63-405, Idaho Code, or that is owned by a cooperative or municipal-

ity, as those terms are defined in section 61-332A, Idaho Code, or that is owned by a public utility, as that term is defined in section 61-332A, Idaho Code, owning any other property that is allocated or apportioned. No replacement equipment or improvements may be included; or

(g) Provided such increases do not include increases already reported on the new construction roll, as permitted in paragraphs (j) and (k) of this subsection, increases in value over the base value of property on the base assessment roll within an urban renewal revenue allocation area that has been terminated pursuant to section 50-2909(4), Idaho Code, to the extent that this increment exceeds the incremental value as of December 31, 2006, or, for revenue allocation areas formed after December 31, 2006, the entire increment value. Notwithstanding other provisions of this section, the new construction roll shall not include new construction located within an urban renewal district's revenue allocation area, except as provided in this paragraph; or

(h) New construction, in any one (1) of the immediate five (5) tax years preceding the current tax year, allowable but never included on a new construction roll, provided however, that, for such property, the value on the new construction roll shall reflect the taxable value that would have been included on the new construction roll for the first year in which the property should have been included.

(i) Formerly exempt improvements on state college or state university-owned land for student dining, housing, or other education-related purposes approved by the state board of education and board of regents of the university of Idaho as proper for the operation of such state college or university provided however, such improvements were never included on any previous new construction roll.

(j) Increases in base value when due to previously determined increment value added to the base value as required in sections 50-2903 and 50-2903A, Idaho Code, due to a modification of the urban renewal plan. In this case, the amount added to the new construction roll will equal the amount by which the increment value in the year immediately preceding the year in which the base value adjustment described in this subsection occurs exceeds the incremental value as of December 31, 2006, or, for revenue allocation areas formed after December 31, 2006, the entire increment value.

(k) Increases in base value when due to previously determined increment value added to the base value as a result of a de-annexation within a revenue allocation area as defined in section 50-2903, Idaho Code. In this case, the amount added to the new construction roll will equal the amount by which the increment value in the year immediately preceding the year in which the de-annexation described in this subsection occurs exceeds the incremental value as of December 31, 2006, or, for revenue allocation areas formed after December 31, 2006, the entire increment value within the area subject to the de-annexation.

(4) The amount of taxable market value of new construction shall be the change in net taxable market value that is attributable directly to new construction or a change in use of the land or loss of the exemption provided by section 63-602W(3) or (4), Idaho Code. It shall not include any change in value of existing property that is due to external market forces such as general or localized inflation, except as provided in subsection (3) (g) of this section.

(5) The amount of taxable market value of new construction shall not include any new construction of property that has been granted a provisional property tax exemption, pursuant to section 63-1305C, Idaho Code. A property owner may apply to the board of county commissioners, if an application is required pursuant to section 63-602, Idaho Code, for an exemption from property tax at the time the initial building permits are applied for or at

the time construction of the property has begun, whichever is earlier, or at any time thereafter.

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

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

(2) The use of the words "exclusive" or "exclusively" in this chapter shall mean used exclusively for any one (1) or more, or any combination of, the exempt purposes provided hereunder and property used for more than one (1) exempt purpose, pursuant to the provisions of sections 63-602A through 63-60200, Idaho Code, shall be exempt from taxation hereunder so as long as the property is used exclusively for one (1) or more or any combination of the exempt purposes provided hereunder.

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

(a) Exemptions pursuant to sections 63-602A, 63-602F, 63-602I, 63-602J, 63-602K for land of more than five (5) contiguous acres, 63-602L(1), 63-602M, 63-602R, 63-602S, 63-602U, 63-602V, 63-602W, 63-602Z, 63-602DD(1), 63-602EE, 63-60200, 63-2431, 63-3502, 63-3502A and 63-3502B, Idaho Code, do not require application or approval by the board of county commissioners. For all other exemptions in title 63, Idaho Code, the process of applying is as specified in the exemption statutes or, if no process is specified and application is necessary to identify the property eligible for the exemption, annual application is required. Exemptions in other titles require no application.

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

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

(4) An owner of property that is intended for a tax exempt purpose may apply to the board of county commissioners for a provisional property tax exemption, pursuant to section 63-1305C, Idaho Code.

SECTION 4. That Section 63-802, Idaho Code, be, and the same is hereby amended to read as follows:

63-802. LIMITATION ON BUDGET REQUESTS -- LIMITATION ON TAX CHARGES -- EXCEPTIONS. (1) Except as provided in subsections (3) and (4) of this section, no taxing district shall certify a budget request for an amount of

property tax revenues to finance an annual budget that exceeds the greater of paragraphs (a) through (k) of this subsection inclusive:

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

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

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

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

(e) In the case of a nonschool district for which less than the maximum allowable increase in the dollar amount of property taxes is certified for annual budget purposes in any one (1) year, such a district may, in any following year, recover the forgone increase by certifying, in addition to any increase otherwise allowed, an amount not to exceed one hundred percent (100%) of the increase originally forgone. Provided however, that prior to budgeting any forgone increase, the district must provide notice of its intent to do so, hold a public hearing, which may be in conjunction with its annual budget hearing, and certify by resolution the amount of forgone increase to be budgeted and the specific purpose for which the forgone increase is being budgeted. Upon adoption of the resolution, the clerk of the district shall file a copy of the resolution with the county clerk and the state tax commission. Said additional amount shall be included in future calculations for increases as allowed;

(f) If a taxing district elects to budget less than the maximum allowable increase in the dollar amount of property taxes, the taxing district may disclaim the right to recover all or any portion of that year's forgone increase by adoption of a resolution declaring the same. The district must provide notice of its intent to do so, and hold a public hearing, which may be in conjunction with its annual budget hearing if applicable. The resolution to disclaim the right to recover the forgone increase for that year shall be adopted at the annual budget hearing of the taxing district if the district has a budget hearing requirement; provided however, that the resolution shall not apply to forgone increases from prior budget years.

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

(h) A taxing district may submit to the electors within the district the question of whether the budget from property tax revenues may be

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

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

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

(k) The amount of money received in the twelve (12) months immediately preceding June 30 of the current tax year as a result of distributions of the tax provided in section 63-3502B(2), Idaho Code.

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

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

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

(5) The amount of property tax revenues to finance an annual budget shall include moneys received as recovery of property tax for a revoked provisional property tax exemption under section 63-1305C, Idaho Code.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2016.

CHAPTER 195
(H.B. No. 565)

AN ACT

RELATING TO FIREARMS; AMENDING SECTION 18-3309, IDAHO CODE, TO REMOVE A CODE REFERENCE, TO PROVIDE THAT RETIRED LAW ENFORCEMENT OFFICERS MAY CARRY A CONCEALED WEAPON IN CERTAIN PLACES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-3302C, IDAHO CODE, TO REVISE A CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 18-3302D, IDAHO CODE, TO PROVIDE AN EXEMPTION FOR CERTAIN QUALIFIED RETIRED LAW ENFORCEMENT OFFICERS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 18-3309, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

(b) As used in this section:

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

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

parking lots within the building used for the parking of motor vehicles.

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

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

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

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

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

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

(vi) A qualified retired law enforcement officer licensed under section 18-3302H, Idaho Code.

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

SECTION 2. That Section 18-3302C, Idaho Code, be, and the same is hereby amended to read as follows:

18-3302C. PROHIBITED CONDUCT. Any person obtaining a license under the provisions of section 18-3302, Idaho Code, or carrying a concealed deadly weapon pursuant to the provisions of section 18-3302(4) (f), Idaho Code, shall not:

(1) Carry a concealed weapon in a courthouse; juvenile detention facility or jail; public or private school, except as provided in subsection (4) (~~g~~) of section 18-3302D, Idaho Code; provided that~~;~~ this subsection shall not apply to:

(a) Peace officers while acting within the scope of their employment;

(b) Security personnel while actually engaged in their employment; or

(c) Any person who is authorized to carry a weapon by a person, board or other entity having authority over the building or facility; or

(2) Provide information on the application for a permit to carry a concealed weapon knowing the same to be untrue.

Any person violating the provisions of this section shall be guilty of a misdemeanor.

SECTION 3. That Section 18-3302D, Idaho Code, be, and the same is hereby amended to read as follows:

18-3302D. POSSESSING WEAPONS OR FIREARMS ON SCHOOL PROPERTY.

(1) (a) It shall be unlawful and is a misdemeanor for any person to possess a firearm or other deadly or dangerous weapon while on the property of a school or in those portions of any building, stadium or other structure on school grounds which, at the time of the violation, were being used for an activity sponsored by or through a school in this state or while riding school provided transportation.

(b) The provisions of this section regarding the possession of a firearm or other deadly or dangerous weapon on school property shall also apply to students of schools while attending or participating in any school-sponsored activity, program or event regardless of location.

(2) Definitions. As used in this section:

(a) "Deadly or dangerous weapon" means any weapon as defined in 18 U.S.C. section 930;

(b) "Firearm" means any firearm as defined in 18 U.S.C. section 921;

(c) "Minor" means a person under the age of eighteen (18) years;

(d) "Possess" means to bring an object, or to cause it to be brought, onto the property of a public or private elementary or secondary school, or onto a vehicle being used for school-provided transportation, or to exercise dominion and control over an object located anywhere on such property or vehicle. For purposes of subsection (1) (b) of this section, "possess" shall also mean to bring an object onto the site of a school-sponsored activity, program or event, regardless of location, or to exercise dominion and control over an object located anywhere on such a site;

(e) "School" means a private or public elementary or secondary school.

(3) Right to search students or minors. For purposes of enforcing the provisions of this section, employees of a school district shall have the right to search all students or minors, including their belongings and lockers, that are reasonably believed to be in violation of the provisions of this section, or applicable school rule or district policy, regarding the possessing of a firearm or other deadly or dangerous weapon.

(4) The provisions of this section shall not apply to the following persons:

(a) A peace officer;

(b) A qualified retired law enforcement officer licensed under section 18-3302H, Idaho Code;

(c) A person who lawfully possesses a firearm or deadly or dangerous weapon as an appropriate part of a program, an event, activity or other circumstance approved by the board of trustees or governing board;

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

(de) Any adult over eighteen (18) years of age and not enrolled in a public or private elementary or secondary school who has lawful possession of a firearm or other deadly or dangerous weapon, secured and locked in his vehicle in an unobtrusive, nonthreatening manner;

(ef) A person who lawfully possesses a firearm or other deadly or dangerous weapon in a private vehicle while delivering minor children, students or school employees to and from school or a school activity; or

(fg) Notwithstanding the provisions of section 18-3302C, Idaho Code, a person or an employee of the school or school district who is authorized to carry a firearm with the permission of the board of trustees of the school district or the governing board.

(5) Penalties. Persons who are found guilty of violating the provisions of this section may be sentenced to a jail term of not more than one (1) year or fined an amount not in excess of one thousand dollars (\$1,000) or both. If a violator is a student and under the age of eighteen (18) years, the court may place the violator on probation and suspend the juvenile detention or fine or both as long as the violator is enrolled in a program of study recognized by the court that, upon successful completion, will grant the violator a general equivalency diploma (GED) or a high school diploma or other educational program authorized by the court. Upon successful completion of the terms imposed by the court, the court shall discharge the offender from serving the remainder of the sentence. If the violator does not complete, is suspended from, or otherwise withdraws from the program of study imposed by the court, the court, upon receiving such information, shall order the violator to commence serving the sentence provided for in this section.

CHAPTER 196
(H.B. No. 567, As Amended)

AN ACT

RELATING TO CEMETERY MAINTENANCE DISTRICTS; AMENDING SECTION 27-110, IDAHO CODE, TO ALLOW FOR FIVE COMMISSIONERS WHEN CONSOLIDATION OCCURS; AMENDING SECTION 27-111, IDAHO CODE, TO PROVIDE THAT CERTAIN CEMETERY MAINTENANCE DISTRICT COMMISSIONERS MAY BE ELECTED AT LARGE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 27-121, IDAHO CODE, TO PROVIDE THE EFFECT OF DISTRICT CONSOLIDATION ON PROPERTY TAX BUDGETS; AMENDING SECTION 27-125, IDAHO CODE, TO INCREASE THE AMOUNT OF A DISTRICT'S BUDGET BEFORE A PUBLIC HEARING MUST BE HELD; AMENDING SECTION 27-126, IDAHO CODE, TO REVISE THE NOTICE REQUIREMENTS; AND AMENDING CHAPTER 1, TITLE 27, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 27-129, IDAHO CODE, TO PROVIDE PROCEDURES FOR CONSOLIDATION OF CEMETERY MAINTENANCE DISTRICTS AND AN ELECTION.

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

SECTION 1. That Section 27-110, Idaho Code, be, and the same is hereby amended to read as follows:

27-110. TERM OF OFFICE -- VACANCIES. (1) At the meeting of the board of county commissioners at which the cemetery maintenance district is declared organized, as provided by section 27-108, Idaho Code, said board of county commissioners shall divide the cemetery maintenance district into three (3) subdivisions, as nearly equal in population, area and mileage as practicable, to be known as cemetery maintenance commissioners subdistricts one, two and three. Not more than one (1) of said commissioners shall be an elector of the same cemetery maintenance subdistrict. The first commissioners appointed by the board of county commissioners shall serve until the next cemetery maintenance district election, at which their successors shall be elected. Any vacancy occurring in the office of the cemetery maintenance commissioner, other than by the expiration of the term of office, shall be filled by the cemetery maintenance board.

(2) A cemetery maintenance district created from the consolidation of two (2) or more cemetery maintenance districts as provided in section 27-129, Idaho Code, may operate with five (5) cemetery maintenance commissioners subdistricts.

SECTION 2. That Section 27-111, Idaho Code, be, and the same is hereby amended to read as follows:

27-111. ELECTION OF COMMISSIONERS. (1) On the first Tuesday following the first Monday in November and every odd-numbered year thereafter, three (3) cemetery maintenance district commissioners shall be elected by the electors of each cemetery district as defined in section 27-104, Idaho Code. For commissioners whose offices expire in 2012 and in any even-numbered year, such commissioners shall remain in office until the next election in an odd-numbered year. The county clerk shall conduct the election in a manner consistent with statutory provisions of chapter 14, title 34, Idaho Code.

(2) For cemetery maintenance districts consisting of less than one hundred fifty (150) registered electors, the cemetery maintenance district commissioners may be elected at large. For all other districts, of the commissioners comprising the board at any one (1) time, not more than one (1) shall be an elector of the same cemetery maintenance commissioners subdistrict. A commissioner shall be an elector of the subdistrict which he represents at the time of his declaration of candidacy and during his term of

office. A qualified elector of the cemetery maintenance district shall be eligible to vote for each of the cemetery maintenance district commissioners. At the first election following the formation of a cemetery maintenance district, commissioners from cemetery maintenance subdistricts one (1) and two (2) shall be elected for terms of four (4) years, and the commissioner from cemetery maintenance subdistrict three (3) shall be elected for a term of two (2) years; thereafter the term of office of all commissioners shall be four (4) years. All elections held under this law, shall be held in conformity with the general laws of the state, including chapter 14, title 34, Idaho Code.

(23) In any election for cemetery maintenance district commissioners, if, after the expiration of the date for filing a declaration of intent as a write-in candidate for the office of commissioner, it appears that only one (1) qualified candidate has been nominated for each position to be filled, it shall not be necessary to hold an election, and the board of commissioners shall declare such candidate elected as commissioner, and the secretary shall immediately make and deliver to such person a certificate of election signed by him bearing the seal of the district. The procedure set forth in this subsection shall not apply to any other cemetery maintenance district election.

(4) A cemetery maintenance district created from the consolidation of two (2) or more cemetery maintenance districts as provided in section 27-129, Idaho Code, may operate with five (5) cemetery maintenance commissioners.

SECTION 3. That Section 27-121, Idaho Code, be, and the same is hereby amended to read as follows:

27-121. LEVIES BY CEMETERY MAINTENANCE BOARD COMMISSIONERS. (1) At the last regular meeting of the cemetery maintenance board prior to the second Monday of September in each year, the cemetery board of each cemetery maintenance district may levy for cemetery purposes a property tax in each cemetery maintenance district of not more than four hundredths of one percent (.04%) of the market value for assessment purposes on all taxable property within the cemetery maintenance district. Upon the levy being made by the cemetery maintenance board under this section, it shall be the duty of the secretary of the district to transmit to the county auditor and county assessor and the state tax commission certified copies of the resolution providing for such levy as provided in section 63-808, Idaho Code. Said taxes shall be collected as provided in section 63-812, Idaho Code.

(2) If two (2) or more cemetery maintenance districts consolidate into one (1) district, the provisions of section 63-802, Idaho Code, shall apply to the consolidated district's budget request as if the former district, which, in the year of the consolidation, has the highest levy subject to the limitations of section 63-802, Idaho Code, had annexed the other district or districts.

(3) An additional property tax of not more than six hundredths of one percent (.06%) of the market value for assessment purposes on all taxable property within the cemetery maintenance district may be levied by the cemetery board for the sole and express purpose of acquisition of burial ground. The proceeds from such levy may be accumulated by the board for future acquisitions or pledged to the repayment of indebtedness incurred pursuant to section 27-122, Idaho Code, provided that the proposal to levy such additional amount of property tax, or portion thereof, shall have been approved by at least two-thirds (2/3) of the qualified electors residing in the cemetery maintenance district at a previous election held in accordance with the provisions of section 34-106, Idaho Code.

SECTION 4. That Section 27-125, Idaho Code, be, and the same is hereby amended to read as follows:

27-125. ADOPTION OF BUDGET -- HEARING. A board shall adopt a budget and any board with a proposed budget in excess of ~~twenty~~thirty-five hundred dollars (\$~~2,500~~3,500) shall cause a public hearing to be held upon such budget prior to certifying a tax levy to the board of county commissioners pursuant to the requirements of section 63-802A, Idaho Code.

SECTION 5. That Section 27-126, Idaho Code, be, and the same is hereby amended to read as follows:

27-126. NOTICE OF HEARING -- PUBLICATION -- CONTENTS. Notice of the budget hearing meetings shall be posted at least ten (10) full days prior to the date of said meeting in at least one (1) conspicuous place in each cemetery maintenance district to be determined by the board. A copy of such notice shall also be published in a daily or weekly newspaper published within such cemetery maintenance district, in one (1) issue thereof, during such ten (10) day period. The place, hour and day of such hearing shall be specified in said notice, as well as the place where such budget may be examined prior to such hearing. A full and complete copy of such proposed budget shall be published with and as a part of the publication of such notice of hearing and on the district's official website if one exists. All hearings of the district shall be open to the public and shall permit all persons an opportunity to present oral and written testimony within reasonable time limits.

SECTION 6. That Chapter 1, Title 27, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 27-129, Idaho Code, and to read as follows:

27-129. CONSOLIDATION OF DISTRICT -- ELECTION. Any cemetery maintenance district may consolidate with one (1) or more existing cemetery maintenance districts, provided that at least one (1) district in the proposed consolidation contains less than one hundred fifty (150) registered electors when consolidation is proposed, and that none of the districts are farther than ten (10) miles apart from any other district in the proposed consolidation. Such a consolidation is only permitted subject to the following procedure and with the following effects:

(1) If, the board of any cemetery maintenance district determines that consolidation with one (1) or more other existing cemetery maintenance districts would be to the advantage of the district, the board will cause to be prepared an agreement for consolidation that will provide:

(a) The name of the proposed consolidated cemetery district;

(b) That all property of the districts to be consolidated will become the property of the consolidated district;

(c) That all debts of the districts to be consolidated shall become the debts of the consolidated district;

(d) That the existing commissioners of the districts to be consolidated shall be the commissioners of the consolidated district until the next election, said election to be held pursuant to the terms of section 27-111, Idaho Code, at which three (3) commissioners shall be elected, unless the agreement of consolidation establishes a five (5) member board, in which case five (5) commissioners shall be elected. If the board consists of three (3) members, commissioners from cemetery subdistricts one (1) and two (2) shall be elected for terms of four (4) years, and the commissioner from cemetery subdistrict three (3) shall be elected for a term of two (2) years. If the board consists of five (5) commissioners, the commissioners from cemetery subdistricts one (1), three (3) and five (5) shall be elected for terms of four (4) years, and

the commissioners from cemetery subdistricts two (2) and four (4) shall be elected for an initial term of two (2) years. Thereafter, the term of all commissioners shall be four (4) years; and

(e) At least one (1) public hearing shall be held by the boards of cemetery district commissioners prior to the election.

(2) After approval of the agreement by each of the cemetery maintenance district boards, such consolidation must then be presented to the electors of the cemetery districts for ratification in order to take effect. An election ratifying an agreement consolidating cemetery maintenance districts must be held in an even-numbered year on the dates provided in section 34-106(1) (a) and (b), Idaho Code. The board of each district involved in the proposed consolidation must approve the agreement at least eighty (80) days before such an election and the county clerk where each district is located must be notified of the agreement of consolidation at least eighty (80) days before such an election.

(3) The county clerk will provide personal notice of the election by mail to each elector of the district and notice of whether a levy rate would increase as a consequence of the proposed consolidation, detailing the levy rate that would be adopted by consolidation. The election will otherwise be conducted as provided in section 27-106, Idaho Code, except that the question will be "Consolidation of cemetery districts, yes," or "Consolidation of cemetery districts, no," or words equivalent thereto. If more than one-half (1/2) of the votes cast for each of the affected districts are yes, the agreement will become effective. If more than one-half (1/2) of the votes cast in either of the affected districts are no, the agreement will be void and of no effect.

(4) Upon the agreement of consolidation becoming effective, the board of the consolidated cemetery district will file a certified copy of the agreement with the county recorder and comply with the provisions of section 63-215, Idaho Code. The consolidated district will thereafter have the same rights and obligations as any other district organized under the statutes of this state.

(5) When the agreement of consolidation is filed with the county recorder, the county commissioners will divide the cemetery maintenance district into as many subdistricts as are provided in the agreement of consolidation. The subdistricts will be as nearly equal in population, area and mileage as practicable. The subdistricts will be used in the next election following consolidation and in elections thereafter as provided in subsection (1) (d) of this section and section 27-111, Idaho Code.

(6) An agreement of consolidation will not take effect unless such consolidation complies with the provisions of section 27-121(2), Idaho Code.

Approved March 20, 2018

CHAPTER 197
(H.B. No. 580)

AN ACT

RELATING TO EDUCATION; REPEALING SECTION 4, CHAPTER 252, LAWS OF 2014, RELATING TO THE REPEAL OF SECTION 33-507, IDAHO CODE; REPEALING SECTION 5, CHAPTER 252, LAWS OF 2014, RELATING TO THE REPEAL OF SECTION 33-514A, IDAHO CODE; REPEALING SECTION 6, CHAPTER 252, LAWS OF 2014, RELATING TO THE REPEAL OF SECTION 33-5204, IDAHO CODE; REPEALING SECTION 7, CHAPTER 252, LAWS OF 2014, RELATING TO THE ENACTMENT OF A NEW SECTION 33-507, IDAHO CODE; REPEALING SECTION 8, CHAPTER 252, LAWS OF 2014, RELATING TO THE ENACTMENT OF A NEW SECTION 33-514A, IDAHO CODE; REPEALING SECTION 9, CHAPTER 252, LAWS OF 2014, RELATING TO THE ENACTMENT OF A NEW SECTION 33-5204, IDAHO CODE; REPEALING SECTION 10, CHAPTER 252, LAWS OF 2014, RELATING TO AN EFFECTIVE DATE; REPEALING SECTION 71, CHAPTER 141, LAWS OF 2015, RELATING TO THE AMENDMENT OF THE NEW SECTION 33-5204, IDAHO CODE; REPEALING SECTION 198, CHAPTER 141, LAWS OF 2015, RELATING TO AN EFFECTIVE DATE; REPEALING SECTION 4, CHAPTER 271, LAWS OF 2016, RELATING TO THE AMENDMENT OF THE NEW SECTION 33-5204, IDAHO CODE; AND REPEALING SECTION 14, CHAPTER 271, LAWS OF 2016, RELATING TO AN EFFECTIVE DATE.

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

SECTION 1. That Section 4, Chapter 252, Laws of 2014, be, and the same is hereby repealed.

SECTION 2. That Section 5, Chapter 252, Laws of 2014, be, and the same is hereby repealed.

SECTION 3. That Section 6, Chapter 252, Laws of 2014, be, and the same is hereby repealed.

SECTION 4. That Section 7, Chapter 252, Laws of 2014, be, and the same is hereby repealed.

SECTION 5. That Section 8, Chapter 252, Laws of 2014, be, and the same is hereby repealed.

SECTION 6. That Section 9, Chapter 252, Laws of 2014, be, and the same is hereby repealed.

SECTION 7. That Section 10, Chapter 252, Laws of 2014, be, and the same is hereby repealed.

SECTION 8. That Section 71, Chapter 141, Laws of 2015, be, and the same is hereby repealed.

SECTION 9. That Section 198, Chapter 141, Laws of 2015, be, and the same is hereby repealed.

SECTION 10. That Section 4, Chapter 271, Laws of 2016, be, and the same is hereby repealed.

SECTION 11. That Section 14, Chapter 271, Laws of 2016, be, and the same is hereby repealed.

Approved March 20, 2018

CHAPTER 198
(H.B. No. 624)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3004, IDAHO CODE, AS AMENDED IN SECTION 1 OF HOUSE BILL NO. 463, AS ENACTED BY THE SECOND REGULAR SESSION OF THE SIXTY-FOURTH IDAHO LEGISLATURE, 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, as amended in Section 1 of House Bill No. 463, as enacted by the Second Regular Session of the Sixty-fourth Idaho Legislature, be, and the same is hereby amended to read as follows:

63-3004. INTERNAL REVENUE CODE. (a) The term "Internal Revenue Code" means, for taxable years beginning on any day of 2017, the Internal Revenue Code of 1986 of the United States, as amended, and in effect on the twenty-first day of December 2017, except that Internal Revenue Code sections 965 and 213 are applied as in effect on December 31, 2017; and Internal Revenue Code sections 108, 163, 168(e), 168(i), 179D, 179E, 181, 199, 222 and 451 are applied as in effect on February 9, 2018.

(b) The term "Internal Revenue Code" means, for taxable years beginning on or after the first day of January 2018, the Internal Revenue Code of 1986, as amended, and in effect on the first day of January 2018.

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

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

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2018.

Approved March 20, 2018

CHAPTER 199
(H.B. No. 629)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 54-1016, IDAHO CODE, TO EXEMPT HIGH SCHOOL STUDENTS FROM APPRENTICESHIP REGISTRATION REQUIREMENTS UNDER CERTAIN CIRCUMSTANCES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-2602, IDAHO CODE, TO EXEMPT HIGH SCHOOL STUDENTS FROM APPRENTICESHIP REGISTRATION REQUIREMENTS UNDER CERTAIN CIRCUMSTANCES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-5002, IDAHO CODE, TO EXEMPT HIGH SCHOOL STUDENTS FROM APPRENTICESHIP REGISTRATION REQUIREMENTS UNDER CERTAIN CIRCUMSTANCES; AND AMENDING SECTION 54-5006, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

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 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 of the person's employer;

(c) Any telephone company, rural telephone cooperative, or municipal communications utility, its employees, its subsidiaries, and employees of the subsidiaries performing work on customer-owned facilities under the exclusive control of the telephone company, rural telephone cooperative, or municipal communications utility;

(d) Any telephone company, rural telephone cooperative, or municipal communications utility, its employees, its subsidiaries, and employees of the subsidiaries performing repair work on customer-owned facilities at the request of the customer;

(e) Any electrical public utility, rural electrical cooperative, municipal power utility, its employees, its subsidiaries, and employees

of the subsidiaries performing work on customer-owned facilities under the exclusive control of the electrical public utility, rural electrical cooperative, or municipal power utility; and

(f) Any electrical public utility, rural electrical cooperative, municipal power utility, its employees, its subsidiaries, and employees of the subsidiaries performing emergency repair work on customer-owned facilities at the request of the customer.

(3) The licensing provisions of this chapter shall not apply to individuals licensed pursuant to chapter 50, title 54, Idaho Code, or certified pursuant to chapter 26, title 54, Idaho Code, as follows:

(a) Individuals holding a current heating, ventilation and air conditioning (HVAC) license or a current plumbing certification may install electrical circuitry from the disconnecting means to a water heater and electrical connections to the water heater as long as the disconnect is in sight from the unit and the circuit from the disconnecting means to the water heater is no more than fifty (50) feet long.

(b) Individuals holding a current HVAC license may install:

(i) Electrical space heaters with no attached ductwork;

(ii) Electrical connections to HVAC equipment from the disconnecting means to the unit as long as the disconnect is in sight from the unit and the circuit from the disconnecting means to the HVAC equipment is no more than fifty (50) feet long; and

(iii) Ventilating fans, except ducted range hoods in residences.

(c) HVAC licensees may install control wiring of twenty-four (24) 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.

(4) To the extent that a plumbing or HVAC installation permit issued by the Idaho division of building safety includes any part of an electrical installation, the permit issued and inspection performed shall be sufficient to satisfy the permitting and inspecting requirements of this chapter if all required permit fees have been paid.

(5) Approval and certification requirements of product and equipment as set forth in this chapter and in the adopted edition of the national electrical code do not apply to industrial equipment unless the board has made a determination that such product, machine or classes of products and machines present an undue hazard to life and property.

(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.

SECTION 2. That Section 54-2602, Idaho Code, be, and the same is hereby amended to read as follows:

54-2602. EXCEPTIONS. (1) Certificate of competency requirements of this chapter shall not be deemed to apply to:

(a) Any person who does plumbing work in a single or duplex family dwelling, including accessory buildings, quarters and grounds in connection with such dwelling; provided that such person owns or is a contract purchaser of the premises, and provided further that such person shall comply with the minimum standards and rules applicable to plumbing practices provided by this chapter.

(b) Farm buildings located outside the incorporated limits of any city unless such buildings are connected to a public water or sewer system;

and a farm building is hereby defined to be a structure located on agricultural zoned property and designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products and includes sheds, barns, corrals or fences. This definition does not include a place for human habitation or a place of regular employment where agricultural products are extracted, processed, treated or packaged; a place used by the public; or conditioned livestock housing.

(c) Logging, mining or construction camps when plumbing installations are made to conform with the recommendations of the department of health and welfare.

(d) Piping systems in industrial processing plants located outside the incorporated limits of any city unless such systems are connected to a public water or sewer system.

(e) Work on plumbing systems on premises owned or operated by an employer who regularly employs maintenance or construction plumbers, provided that alterations, extensions and new construction shall comply with the minimum standards and rules applicable to plumbing practices provided by this chapter.

(f) Nothing contained in this section or any other provision of this code shall be construed or applied to require a sewer contractor, sewage disposal contractor, or any excavating or utility contractor who generally engages in the business of installing, altering or repairing sewers, private and public sewage disposal systems, and water distribution and/or drainage lines outside the foundation walls of any building or structure, to obtain a valid contractor's certificate of competency or to employ only journeymen plumbers possessing a valid journeyman plumber's certificate of competency or registration, or to in any way require that his employees be registered, licensed or declared competent by the board.

(g) Water treatment installations and repairs when installed in residential or business properties, provided the same, when installed, repaired or completed, shall be inspected by a designated, qualified and properly identified agent of the division of building safety as to quality of workmanship and compliance with the applicable provisions of this chapter.

(h) Plumbing work within 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.

(i) Individuals licensed pursuant to chapter 10, title 54, Idaho Code, or chapter 50, title 54, Idaho Code, as follows:

(i) Individuals holding a current HVAC or electrical license may install electrical circuitry from the disconnecting means to a water heater and electrical connections to the water heater as long as the disconnect is in sight from the unit and the circuit from the disconnecting means to the water heater is no more than fifty (50) feet long.

(ii) Individuals holding a current HVAC license may install gas piping and piping for hydronic systems.

(iii) Individuals holding a current HVAC license may install boilers that are not otherwise subject to inspection by the industrial commission or its authorized agent.

(2) To the extent that an electrical or HVAC installation permit issued by the Idaho division of building safety includes any part of a plumbing 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.

(3) Apprentice registration requirements shall not apply to high school students enrolled in an educational program recognized by the board in which the performance of plumbing 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 plumber, 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.

(4) Any person, firm, copartnership, association or corporation making water treatment installations and/or repairs in accordance with the provisions of this chapter shall maintain a surety bond in the amount of two thousand dollars (\$2,000).

SECTION 3. That Section 54-5002, Idaho Code, be, and the same is hereby amended to read as follows:

54-5002. EXCEPTIONS. (1) Certificate of competency requirements of this chapter shall not apply to:

(1a) Any person who installs or maintains a heating, ventilation and air conditioning system in a single or duplex family dwelling, including accessory buildings, quarters and grounds in connection with such dwelling; provided that such person owns or is a contract purchaser of the premises; and provided further that such person shall comply with the standards and rules applicable to heating, ventilation and air conditioning installation or repairs as provided in this chapter.

(2b) Farm buildings located outside the incorporated limits of any city; and a farm building is hereby defined to be a structure located on agricultural zoned property and designated and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products and includes sheds, barns, corrals or fences. This definition does not include a place for human habitation or a place of regular employment where agricultural products are extracted, processed, treated or packaged; a place used by the public; or conditioned livestock housing.

(3c) Logging, mining or construction camps when heating, ventilation or air conditioning installations are made to conform to the recommendations of the department of health and welfare.

(4d) Work on heating, ventilation or air conditioning systems on premises owned or operated by an employer who regularly employs maintenance or construction heating, ventilation and air conditioning journeymen, provided that alterations, extensions and new construction shall comply with the minimum standards and rules applicable to heating, ventilation and air conditioning practices in accordance with the provisions of this chapter.

(5e) 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) Apprentice registration requirements shall not apply to high school students enrolled in an educational program recognized by the board in which the performance of HVAC 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, 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.

SECTION 4. That Section 54-5006, Idaho Code, be, and the same is hereby amended to read as follows:

54-5006. ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY. The administrator shall exercise such powers and duties as are reasonably necessary to enforce standards provided in this chapter, and he may, among other things:

(1) Serve as secretary to the Idaho heating, ventilation and air conditioning board.

(2) Appoint state mechanical inspectors who shall be authorized to enter and inspect by and through a properly identified person, at reasonable hours, heating, ventilation and air conditioning systems.

(3) Make HVAC inspections for another state or local jurisdiction upon request by an appropriate building official. Such inspections shall be made in accordance with the applicable HVAC codes of the requesting jurisdiction. Fees charged for such inspection services shall be as provided in the rules promulgated by the board.

(4) Notwithstanding the exception provided in section 54-5002 (51) (e), Idaho Code, the administrator may make inspections of modular buildings constructed in Idaho upon written request from the manufacturer. Such inspections shall be made in accordance with the codes adopted in this chapter. Inspection fees for such inspections shall be as provided in section 39-4303, Idaho Code. The administrator may issue an insignia of approval if the buildings are in compliance with the requirements set forth in chapter 43, title 39, Idaho Code.

(5) Summon witnesses to appear and testify before him 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. Such summons to testify shall be issued and served in like manner as a subpoena to witness issued from the district court, or in other manner consistent with procedure of the division of building safety. In case any witness shall fail or refuse to appear and testify upon being summoned as herein provided, the clerk of the district court of the county shall, upon demand by said administrator or his designated agent, issue a subpoena reciting the demand therefor and summoning the witness to appear and testify at a time and place fixed. Violation of such subpoena or disobedience thereto shall be deemed and punished as a violation of any other subpoena issued from the district court.

(6) Administer oaths and take affirmations of witnesses appearing before him or a duly appointed hearing officer; and have the power to appoint competent persons to issue subpoenas, administer oaths and take testimony.

(7) Impose civil penalties as provided in this chapter and rules of the board.

Approved March 20, 2018

CHAPTER 200
(H.B. No. 631)

AN ACT

RELATING TO HIGHER EDUCATION; AMENDING SECTION 33-3717B, IDAHO CODE, TO REVISE PROVISIONS REGARDING RESIDENCY REQUIREMENTS.

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

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

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

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

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

(c) Any student who is a graduate of an accredited secondary school in the state of Idaho pursuant to section 33-119, Idaho Code, is domiciled in Idaho, and who matriculates at an Idaho public institution of higher education within ~~six~~ eight (68) years immediately following secondary school graduation regardless of the domicile of the student's parent or guardian, or any student who completes six (6) years of elementary and secondary education in Idaho, is domiciled in Idaho, and matriculates at an Idaho public institution of higher education within ~~six~~ eight (68) years immediately following completion of secondary education.

(d) The spouse of a person who is classified, or is eligible for classification, as a resident of the state of Idaho for the purposes of attending an Idaho public institution of higher education, except that a student who was enrolled as a full-time student in any term during the twelve (12) month period before the term in which the student proposes to enroll as a resident student must independently establish domicile under subsection (2) of this section.

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

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

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

(h) A person separated, under honorable conditions, from the United States armed forces after at least two (2) years of service, who at the time of separation designates the state of Idaho as his intended domicile or who has Idaho as the home of record in service and enters a college or university in the state of Idaho within one (1) year of

the date of separation, or who moves to Idaho for the purpose of establishing domicile; provided however, to maintain status as a resident student, such person must actively establish domicile in Idaho within one (1) year of matriculation in a public institution of higher education in Idaho.

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

(j) A student who is a member of an Idaho Native American Indian tribe, whose traditional and customary tribal boundaries included portions of the state of Idaho, or whose Indian tribe was granted reserved lands within the state of Idaho. The state board of education shall maintain a list of tribes who that meet these requirements.

(k) A student matriculating at and attending a public institution of higher education in Idaho in a graduate or professional program who:

(i) Graduated from an institution of higher education located in Idaho that:

1. Is public;

2. Is private and holds a certificate of registration with the board pursuant to section 33-2402, Idaho Code; or

3. Is private, nonprofit and exempt from registration with the board pursuant to section 33-2402, Idaho Code;

(ii) Physically resided in Idaho for at least the final twelve (12) months of undergraduate studies;

(iii) Earned a baccalaureate degree from the undergraduate institution sufficient to meet the standards for admission into the graduate or professional program; and

(iv) Enrolls in the graduate or professional program no later than thirty-six (36) months after receiving a baccalaureate degree from the undergraduate institution.

(2) The establishment of a new domicile in Idaho by a person formerly domiciled in another state has occurred if such person has resided in Idaho for the prior twelve (12) months and:

(a) Is physically present in Idaho primarily for purposes other than educational. A An undergraduate student who is enrolled as a full-time student in any term during the prior twelve (12) month period shall be presumed to be in Idaho for primarily educational purposes. Such period of enrollment shall not be counted toward the establishment of a domicile in this state unless the student can provide proof of full-time employment in Idaho for twelve (12) months before the term in which the student proposes to enroll as a resident student and the filing of an Idaho state resident income tax return for the prior tax year; or

(b) Is a full-time student in a graduate or professional program at an institution of higher education in Idaho.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, the following students shall be considered nonresidents for tuition purposes:

(a) A student attending an Idaho public institution of higher education with financial assistance provided by another country or governmental unit or agency thereof. Such nonresidency shall continue for twelve (12) months after the completion of the last semester for which such assistance was provided.

(b) A student who is not a United States citizen, unless lawfully present in the United States.

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

(5) Appeal from a final determination denying residency status may be initiated by the filing of an action in the district court of the county in which the affected public institution of higher education is located. An appeal from the district court shall lie as in all civil actions.

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

(7) For students who apply for special graduate and professional programs including, but not limited to, the WWAMI (Washington, Wyoming, Alaska, Montana, Idaho) regional medical program, the WICHE student exchange programs, Idaho dental education program, the university of Utah school of medicine, and the Washington-Idaho regional program in veterinary medicine, no applicant shall be certified or otherwise designated as a beneficiary of such special program who does not meet the definition of resident student as set forth in subsection (1) of this section.

Approved March 20, 2018

CHAPTER 201
(H.B. No. 660)

AN ACT

RELATING TO THE APPROPRIATION TO THE CATASTROPHIC HEALTH CARE PROGRAM FOR FISCAL YEAR 2019; AND APPROPRIATING MONEYS TO THE CATASTROPHIC HEALTH CARE PROGRAM AND DIRECTING A TRANSFER FOR FISCAL YEAR 2019.

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

SECTION 1. There is hereby appropriated and the State Controller shall transfer \$9,999,700 from the General Fund to the Catastrophic Health Care Cost Fund for the Catastrophic Health Care Program for the period July 1, 2018, through June 30, 2019.

Approved March 20, 2018

CHAPTER 202
(H.B. No. 661)

AN ACT

RELATING TO THE APPROPRIATION TO THE COMMISSION ON HISPANIC AFFAIRS FOR FISCAL YEAR 2019; APPROPRIATING MONEYS TO THE COMMISSION ON HISPANIC AFFAIRS FOR FISCAL YEAR 2019; AND LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

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

SECTION 1. There is hereby appropriated to the 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, 2018, through June 30, 2019:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General			
Fund	\$133,100	\$55,100	\$188,200
Miscellaneous Revenue			
Fund	58,300	49,100	107,400
Federal Grant			
Fund	0	35,000	35,000
TOTAL	\$191,400	\$139,200	\$330,600

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, 2018, through June 30, 2019, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

Approved March 20, 2018

CHAPTER 203
(H.B. No. 662)

AN ACT

RELATING TO THE APPROPRIATION TO THE AGRICULTURAL RESEARCH AND COOPERATIVE EXTENSION SERVICE FOR FISCAL YEAR 2019; APPROPRIATING MONEYS TO THE AGRICULTURAL RESEARCH AND COOPERATIVE EXTENSION SERVICE FOR FISCAL YEAR 2019; 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 listed funds for the period July 1, 2018, through June 30, 2019:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General				
Fund	\$26,914,600	\$3,614,600	\$777,900	\$31,307,100
Equine Education				
Fund	<u>0</u>	<u>24,000</u>	<u>0</u>	<u>24,000</u>
TOTAL	\$26,914,600	\$3,638,600	\$777,900	\$31,331,100

SECTION 2. EXEMPTIONS FROM OBJECT TRANSFER LIMITATIONS. For fiscal year 2019, 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, 2018, through June 30, 2019. Legislative appropriations shall not be transferred from one fund to another fund unless expressly approved by the Legislature.

Approved March 20, 2018

CHAPTER 204
(H.B. No. 505)

AN ACT

RELATING TO PHYSICAL THERAPY; AMENDING CHAPTER 22, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-2225, IDAHO CODE, TO PROVIDE FOR THE PRACTICE OF DRY NEEDLING BY A PHYSICAL THERAPIST AND TO AUTHORIZE RULE-MAKING; AND AMENDING SECTION 54-2203, IDAHO CODE, TO DEFINE A TERM AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Chapter 22, 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 54-2225, Idaho Code, and to read as follows:

54-2225. PRACTICE OF DRY NEEDLING. (1) A physical therapist may perform dry needling, as defined in section 54-2203, Idaho Code, if the physical therapist has successfully completed minimum education and training requirements as determined by the board from a course in dry needling approved by the federation of state boards of physical therapy or another nationally recognized accrediting body of physical therapy that is approved by the board.

(2) The board shall have the power to promulgate rules that are necessary to carry out the provisions of this section.

SECTION 2. That Section 54-2203, Idaho Code, be, and the same is hereby amended to read as follows:

54-2203. DEFINITIONS. As used in this chapter:

(1) "Applicant" means a person applying for a license or permit under this chapter.

(2) "Board" means the Idaho physical therapy licensure board.

(3) "Bureau" means the bureau of occupational licenses.

(4) "Department" means the department of self-governing agencies.

(5) "Dry needling" means a skilled intervention performed by a physical therapist that uses a thin filiform needle to penetrate the skin and stimulate underlying neural, muscular and connective tissues for the evaluation and management of neuromusculoskeletal conditions, pain and movement impairments.

(6) "License" means a document issued by the board to a person under this chapter authorizing the person to practice as a physical therapist or physical therapist assistant.

(67) "Physical therapist" means a person licensed under the provisions of this chapter to engage in the practice of physical therapy.

(78) "Physical therapist assistant" means a person who meets the requirements of this chapter and who performs physical therapy procedures and related tasks that have been selected and delegated only by a supervising physical therapist.

(89) "Physical therapy" means the care and services provided by or under the direction and supervision of a physical therapist.

(910) The "pPractice of physical therapy" means the exercise of the profession of physical therapy by a person who engages in the following health care activities:

(a) Examining, evaluating and testing individuals with mechanical, physiological and developmental impairments, functional limitations, and disability or other health and movement-related conditions in order to determine a diagnosis for physical therapy and prognosis for physical therapy, plan of therapeutic intervention, and to assess the ongoing effects of intervention-;

(b) Alleviating impairments and functional limitations by designing, implementing and modifying therapeutic interventions that include, but are not limited to: therapeutic exercise; functional mobility training in self-care and in-home, community or work reintegration; manual therapy; assistive, adaptive, protective and supportive devices and equipment; bronchopulmonary hygiene; debridement and wound care; physical agents or modalities; mechanical and electrotherapeutic modalities; and patient-related instruction; and to reduce the risk of injury, impairment, functional limitation, and disability, including the promotion and maintenance of fitness, health, and quality of life in all age populations. The practice of physical therapy shall not include the use of radiology, surgery or medical diagnosis of disease-; and

(c) Engaging in administration, consultation, testing, education and research as related to paragraphs (a) and (b) of this subsection.

(101) "Supportive personnel" means a person or persons trained under the direction of a physical therapist who performs designated and supervised routine physical therapy tasks.

Approved March 22, 2018

CHAPTER 205
(H.B. No. 642)

AN ACT

RELATING TO HOMEOWNER'S ASSOCIATIONS AND MANAGEMENT BODIES OF CONDOMINIUMS; AMENDING CHAPTER 1, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-116, IDAHO CODE, TO PROVIDE FOR STATEMENTS OF ACCOUNT AND DISCLOSURE OF FEES; AMENDING SECTION 55-1507, IDAHO CODE, TO PROVIDE THAT CONDOMINIUM BYLAWS SHALL PROVIDE THAT STATEMENTS OF ACCOUNT SHALL BE PROVIDED WITHIN A SPECIFIED TIME TO UNIT OWNERS AFTER NOTICE BY A UNIT OWNER, TO REVISE THE REQUIREMENTS FOR CONTENT OF NOTICE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING CHAPTER 15, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-1528, IDAHO CODE, TO PROVIDE FOR STATEMENTS OF ACCOUNT AND DISCLOSURE OF FEES.

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

SECTION 1. That Chapter 1, 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 55-116, Idaho Code, and to read as follows:

55-116. STATEMENT OF ACCOUNT -- DISCLOSURE OF FEES. (1) A homeowner's association or its agent shall provide a property owner and the owner's agent, if any, a statement of the property owner's account not more than five (5) business days after receipt of a request by the owner or the owner's agent received by the homeowner's association's manager, president, board member, or other agent, or any combination thereof. The statement of account shall include, at a minimum, the amount of annual charges against the property, the date when said amounts are due, and any unpaid assessments or other charges due and owing from such owner at the time of the request. The homeowner's association shall be bound by the amounts set forth within such statement of account.

(2) On or before January 1 of each year, a homeowner's association or its agent shall provide property owners within the association a disclosure of fees that will be charged to a property owner in connection with any transfer of ownership of their property. Fees imposed by a homeowner's association for the calendar year following the disclosure of fees shall not exceed the amount set forth on the annual disclosure, and no surcharge or additional fees shall be charged to any homeowner in connection with any transfer of ownership of their property. No fees may be charged for expeditiously providing a homeowner's statement of account as set forth in this section.

SECTION 2. That Section 55-1507, Idaho Code, be, and the same is hereby amended to read as follows:

55-1507. CONTENTS OF ~~BY-LAWS~~ BYLAWS. The ~~by-laws~~ bylaws referred to in section 55-1506, Idaho Code, when required, shall provide for at least the following:

(a) The election from among the unit owners of a board of managers, the number of persons constituting such board, and that the terms of at least one third (1/3) of the members of the board shall expire annually; the powers and duties of the board; the compensation, if any, of the members of the board; the method of removal from office of members of the board; and whether or not the board may engage the services of a manager or managing agent.

(b) Method of calling meetings of the unit owners; what percentage of the unit owners, if other than a majority, shall constitute a quorum.

(c) Election of a president from among the board of managers, who shall preside over the meetings of the board of managers and of the unit owners.

(d) Election of a secretary, who shall keep the minutes of all meetings of the board of managers and of the unit owners and who shall, in general, perform all the duties incident to the office of secretary.

(e) Election of a treasurer, who shall keep the financial records and books of account.

(f) Maintenance, repair and replacement of the common elements and payments therefor, including the method of approving payment vouchers.

(g) Method of estimating the amount of the annual budget, and the manner of assessing and collecting from the unit owners their respective shares of such estimated expenses, and of any other expenses lawfully agreed upon.

(h) ~~That upon 10 days' after notice to received by the manager or board of managers and payment of a reasonable fee within five (5) business days thereafter,~~ any unit owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such owner and other amounts set forth in section 55-1528, Idaho Code.

(i) Designation and removal of personnel necessary for the maintenance, repair and replacement of the common elements.

(j) Such restrictions on and requirements respecting the use and maintenance of the units and the use of the common elements, not set forth in the declaration, as are designed to prevent unreasonable interference with the use of their respective units and of the common elements by the several unit owners.

(k) Method of adopting and of amending administrative rules and regulations governing the operation and use of the common elements.

(l) The percentage of votes required to modify or amend the ~~by-laws~~ bylaws, but each one of the particulars set forth in this section shall always be embodied in the ~~by-laws~~ bylaws.

SECTION 3. That Chapter 15, 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 55-1528, Idaho Code, and to read as follows:

55-1528. STATEMENT OF ACCOUNT -- DISCLOSURE OF FEES. (1) A management body or its agent shall provide a unit owner and the owner's agent, if any, a statement of the unit owner's account not more than five (5) business days after receipt of a request by the unit owner or the unit owner's agent received by the management body, the management body's manager, president, board member, or other agent, or any combination thereof. The statement of account shall include, at a minimum, the amount of annual charges against the unit, the date when said amounts are due, and any unpaid assessments or other charges due and owing from such owner at the time of the request. The management body shall be bound by the amounts set forth within such statement of account.

(2) On or before January 1 of each year, a management body or its agent shall provide unit owners a disclosure of fees that will be charged to a unit owner in connection with any transfer of ownership of a unit. Fees imposed by a management body for the calendar year following the disclosure of fees shall not exceed the amount set forth on the annual disclosure, and no surcharge or additional fees shall be charged to any unit owner in connection with any transfer of ownership of the unit. No fees may be charged for expeditiously providing a unit owner's statement of account as set forth in this section.

Approved March 22, 2018

CHAPTER 206
(H.B. No. 453)

AN ACT

RELATING TO ADOPTION EXPENSES; AMENDING SECTION 63-3022I, IDAHO CODE, TO INCREASE THE AMOUNT OF THE INCOME TAX DEDUCTION FOR ADOPTION EXPENSES; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-3022I. ADOPTION EXPENSES. For taxable years commencing on or after January 1, ~~1994~~ 2018, legal fees and costs and medical expenses and costs all related to the adoption of a child may be deducted from taxable income by adoptive parents. The deduction allowed pursuant to this section shall not exceed ~~three~~ ten thousand dollars (\$~~310~~,000) for the legal fees and costs and medical expenses and costs incurred in the adoption, or the actual costs of the legal fees and costs and medical expenses and costs incurred in the adoption, whichever amount is less, which amount may not include travel costs.

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 20, 2018

CHAPTER 207
(H.B. No. 478)

AN ACT

RELATING TO ELECTRICAL CONTRACTORS AND JOURNEYMEN; AMENDING SECTION 54-1019, IDAHO CODE, TO PROVIDE FOR MASTER ELECTRICIANS, TO REVISE THE QUALIFICATIONS OF INSPECTORS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-1019, Idaho Code, be, and the same is hereby amended to read as follows:

54-1019. QUALIFICATIONS OF INSPECTORS. The administrator of the division of building safety shall appoint the number of deputy electrical inspectors as may be required for the effective enforcement of the provisions of this chapter. All inspectors shall be skilled in electrical installations with not less than four (4) years of actual experience as a journeyman or master electrician, shall possess ~~certificates of competency~~ journeyman or master electrician licenses in the state of Idaho prior to appointment, and shall be fully familiar with the provisions of this chapter and rules made both by the administrator and the Idaho electrical board. No inspector employed by the division of building safety and assigned to the enforcement of the provisions of this chapter shall be engaged or financially interested in an electrical business, trade, practice or work, or the sale of any supplies connected therewith, nor shall he act as an agent, directly or indirectly, for any person, firm, copartnership, association or corporation so engaged. Inspectors employed by municipalities electing

to claim exemption under this chapter must possess the qualifications set forth in this section. Inspectors employed by the division of building safety shall take and pass, before the end of their probationary period, the a general inspector's test administered approved by the educational testing service, or future tests developed by the educational testing service for that purpose, or such examination developed for similar purposes, and administered by another testing agency, which the Idaho electrical board may select. Inspectors shall be required to participate in continuous education training as directed by the Idaho electrical board and administered by the division of building safety. The board may also promulgate rules relative to the applicability of this provision to existing electrical inspectors with permanent status in the division.

Approved March 20, 2018

CHAPTER 208
(H.B. No. 479)

AN ACT

RELATING TO ELECTRICAL CONTRACTORS AND JOURNEYMEN; AMENDING SECTION 54-1001, IDAHO CODE, TO REVISE THE DECLARATION OF POLICY; AMENDING SECTION 54-1001D, IDAHO CODE, TO REVISE A PROVISION REGARDING THE ISSUANCE OF A CERTAIN PERMIT AND TO REVISE TERMINOLOGY; AMENDING SECTION 54-1002, IDAHO CODE, TO PROVIDE FOR MASTER ELECTRICIANS, TO PROVIDE FOR FACILITY ACCOUNTS AND TO PROVIDE FOR REGISTRATIONS; AMENDING SECTION 54-1003, IDAHO CODE, TO PROVIDE FOR REGISTRATIONS; AMENDING SECTION 54-1003A, IDAHO CODE, TO REVISE A DEFINITION, TO DEFINE A TERM AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1004, IDAHO CODE, TO REVISE A PROVISION REGARDING NOTIFICATION, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1005, IDAHO CODE, TO REVISE TERMINOLOGY AND TO REVISE PROVISIONS REGARDING INSPECTIONS AND PERMITS; AMENDING SECTION 54-1008, IDAHO CODE, TO REMOVE OBSOLETE PROVISIONS, TO PROVIDE FOR A FACILITY ACCOUNTS LICENSE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1009, IDAHO CODE, TO PROVIDE FOR REGISTRATIONS AND TO PROVIDE THAT THE ADMINISTRATOR MAY NOT REVOKE A CERTAIN LICENSE FOR FAILURE TO MAINTAIN CERTAIN INSURANCE; AMENDING SECTION 54-1010, IDAHO CODE, TO REMOVE OBSOLETE PROVISIONS AND TO PROVIDE FOR MASTER ELECTRICIANS; AMENDING SECTION 54-1014, IDAHO CODE, TO PROVIDE FOR A FACILITY ACCOUNT LICENSE FEE; AND AMENDING SECTION 54-1016, IDAHO CODE, TO REVISE CERTAIN EXEMPTIONS AND TO REVISE TERMINOLOGY.

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

SECTION 1. That Section 54-1001, Idaho Code, be, and the same is hereby amended to read as follows:

54-1001. DECLARATION OF POLICY. From and after the taking effect of this act, all installations in the state of Idaho of wires and equipment to convey electric current and installations of apparatus to be operated by such current, except as hereinafter provided, shall be made substantially in accord with the National Electrical Code of 1971, NFPA 70, as amended and approved by the American Standards Institute Idaho electrical board and adopted by the Idaho legislature, relating to such work as far as the same covers both fire and personal injury hazards, and as the National Electrical Code shall be amended, revised, compiled and published from time to time and as such amendments or revisions are adopted by the Idaho electrical board.

SECTION 2. That Section 54-1001D, Idaho Code, be, and the same is hereby amended to read as follows:

54-1001D. INSPECTIONS OF MODULAR BUILDINGS -- WHEN AUTHORIZED -- APPROVAL AND CERTIFICATION. (1) Notwithstanding the exemption provided in subsection (1)(c) of section 54-1016, Idaho Code, the administrator of the division of building safety may make electrical inspections of any modular building upon written request from the manufacturer.

(a) Inspections shall be made in accordance with the codes adopted in this chapter.

(b) Inspection fees shall be as provided in section 39-4303, Idaho Code.

(c) The administrator may issue ~~inspection tags~~ electrical permits for inspections if the installation of electrical equipment, conductors and apparatus in modular buildings are in compliance with the codes adopted in this chapter.

(2) The administrator of the division of building safety is hereby authorized to make inspections of electrical installations as set forth herein and to issue inspection tags results covering such installations.

SECTION 3. That Section 54-1002, Idaho Code, be, and the same is hereby amended to read as follows:

54-1002. LICENSE ESSENTIAL TO ENGAGE IN BUSINESS -- LICENSURE AUTHORITY EXCLUSIVE TO THE STATE. (1) It shall be unlawful for any person, partnership, company, firm, association or corporation, to act, or attempt to act, as an electrical contractor or special electrical contractor in this state until such person, partnership, company, firm, association or corporation, shall have received a license as an electrical contractor, as herein defined, issued pursuant to the provisions of this chapter by the administrator of the division of building safety.

(2) It shall be unlawful for any person to act as a journeyman or master electrician in this state until such person shall have received a license as a journeyman or master electrician, as herein defined, issued pursuant to the provisions of this act, by the administrator of the division of building safety, provided, however, that any person who has been issued a master electrician's license pursuant to this chapter may act as a journeyman electrician.

(3) It shall be unlawful for any person to act as a specialty electrician in this state until such person shall have received a license as a specialty electrician, as herein defined, issued pursuant to the provisions of this act, by the administrator of the division of building safety, provided however, that any person who has been issued a master electrician's license or a journeyman electrician's license pursuant to this act may act as a specialty electrician.

(4) Licensure of electrical contractors, journeyman electricians, master electricians, specialty electricians, specialty electrical contractors, facility accounts and registration of apprentice electricians shall be within the exclusive jurisdiction of the state pursuant to this chapter and no local jurisdiction shall have the authority to require additional licensure or registration or to require payment of any fees in order for any licensee or registrant to engage in the electrical construction trade within the local jurisdiction or to issue licenses or registrations to persons licensed or registered under this chapter which are inconsistent with the provisions of this chapter or rules promulgated by the division of building safety. The state shall investigate all local infractions and state violations of this chapter and prosecute the same. The local jurisdictions will assist the state by requesting investigations within their jurisdictions. Nothing in this chapter shall restrict a city or county

from imposing stricter public safety rules, notwithstanding any provision of Idaho Code.

SECTION 4. That Section 54-1003, Idaho Code, be, and the same is hereby amended to read as follows:

54-1003. ADMINISTRATOR AUTHORITY. (1) Only the administrator of the division of building safety of the state of Idaho is authorized and empowered to conduct examinations and to pass upon the qualifications of applicants, and to grant and issue licenses or registrations to such applicants as are found to be qualified to engage in the trade, business or calling of a journeyman electrician, electrical contractor, master electrician, specialty electrician, specialty electrical contractor, specialty electrical trainee or apprentice electrician in the manner and upon the terms and conditions hereinafter provided.

(2) No licenses or registrations granted hereunder shall be transferable. Licenses and registrations shall be issued upon the condition that the holder thereof shall comply with all provisions of this chapter.

(3) The administrator of the division of building safety is authorized to impose civil penalties as provided in this chapter.

SECTION 5. That Section 54-1003A, Idaho Code, be, and the same is hereby amended to read as follows:

54-1003A. DEFINITIONS. (1) Electrical Contractor. Except as provided in section 54-1016, Idaho Code, any person, partnership, company, firm, association or corporation engaging in, conducting, or carrying on the business of installing wires or equipment to carry electric current or installing apparatus to be operated by such current, or entering into agreements to install such wires, equipment or apparatus, shall for the purpose of this act be known as an electrical contractor. An electrical contractor, prior to being issued a license, shall be required to provide proof of liability insurance in the amount of three hundred thousand dollars (\$300,000) and proof of worker's compensation insurance if applicable.

(2) Journeyman Electrician. Except as provided in section 54-1016, Idaho Code, and subsections (3), (4), (5) and (6) of this section, any person who personally performs or supervises the actual physical work of installing electric wiring or equipment to convey electric current, or apparatus to be operated by such current, shall, for the purpose of this act, be known as a journeyman electrician.

(3) Apprentice Electrician. Any person who, for the purpose of learning the trade of journeyman electrician, engages in the installation of electric wiring, equipment, or apparatus while under the constant on-the-job supervision of a qualified journeyman electrician shall, for the purpose of this act, be known as an apprentice electrician.

(4) Maintenance Electrician. Any person who is regularly employed to service, maintain or repair electrical apparatus, or to make minor repairs or alterations to existing electrical wires or equipment located on his employer's premises shall, for the purpose of this act, be known as a maintenance electrician.

(5) Master Electrician. A person who has the necessary qualifications, training, experience and technical knowledge to plan, ~~layout~~ lay out or design the installation of electrical wiring or equipment, or to supervise such planning, layout, or design, and who performs or supervises such planning, layout or design, shall, for the purpose of this act, be known as a master electrician.

(6) Specialty Electrician. A person having the necessary qualifications, training, experience and technical knowledge to install, alter, repair and supervise the installing installation, altering alteration or

repairing of special classes of electrical wiring, apparatus or equipment within categories adopted by the board. Specialty electricians shall perform work only within the scope of the specialty category for which the person is licensed.

(7) Specialty Electrical Contractor. Except as provided in section 54-1016, Idaho Code, any person, partnership, company, firm, association or corporation engaging in, conducting or carrying on the business of installing, altering or repairing special classes of electrical wiring, apparatus or equipment within categories adopted by the board, or entering into agreements to perform such specialty work, shall for the purpose of this act be known as a specialty electrical contractor. Specialty electrical contractors shall perform work only within the scope of the specialty category for which the contractor is licensed. A specialty electrical contractor, prior to being issued a license, shall be required to provide proof of liability insurance in the amount of three hundred thousand dollars (\$300,000) and proof of worker's compensation insurance if applicable.

(8) Specialty Electrical Trainee. Any person who, for the purpose of learning the trade of a specialty electrician, engages in the installation of electrical wiring, equipment or apparatus while under the constant on-the-job supervision of a qualified specialty electrician shall, for the purpose of this act, be known as a specialty electrical trainee.

(9) Electrical Facility Employer Account or Facility Account. An employer licensed with the division of building safety who employs individuals holding valid journeyman or master electrician licenses to perform alterations, extensions and new installations of electrical systems or components thereof on premises owned by the employer. The employer may also employ maintenance electricians in accordance with section 54-1016, Idaho Code.

SECTION 6. That Section 54-1004, Idaho Code, be, and the same is hereby amended to read as follows:

54-1004. INSPECTION OF ELECTRICAL INSTALLATIONS -- NOTICE OF DEFECTS CORRECTIONS -- DISCONNECTING ELECTRICAL SERVICE. The administrator of the division of building safety may, during reasonable hours, inspect, reinspect or test any electrical installation coming under the provisions of this act. If, upon inspection, any electrical installation is found to be not in conformity with the provisions of this act, the person, partnership, company, firm, association or corporation making such installation shall immediately be notified by any method, in writing as determined by the division of building safety, including electronic communication. The notice shall clearly indicate any and all defects violations to be corrected and specify a definite period of time during which such corrections shall be made. The administrator may ~~cut~~ de-energize, have made safe or disconnect any wire conductor in cases of emergency where necessary for safety of life or property, or order the disconnection of electrical service to any electrical installation, coming under the provisions of this act, when such installation is found to be dangerous to life or property.

SECTION 7. That Section 54-1005, Idaho Code, be, and the same is hereby amended to read as follows:

54-1005. RULES -- INSPECTIONS -- INSPECTION TAGS ELECTRICAL PERMITS AND FEES. (1) The administrator of the division of building safety is hereby authorized and directed to enforce rules consistent with this act for the administration of this act and to effectuate the purposes thereof, and for the examination and licensing of electrical contractors, journeyman electricians, master electricians, specialty electricians, specialty electrical contractors, specialty electrical trainees and apprentice elec-

tricians, and to make inspections of electrical installations referred to in section 54-1001, Idaho Code, and to issue ~~inspection tags~~ electrical permits covering such installations, and to collect the fees established therefor.

(2) The administrator of the division of building safety may make electrical inspections for another state or local jurisdiction upon request by an appropriate building official. Such inspections shall be made in accordance with the applicable electrical codes of the requesting jurisdiction. Fees charged for such inspection services shall be as provided in the rules promulgated by the board.

(3) Individuals, firms, cooperatives, corporations, or municipalities selling electricity, hereinafter known as the power supplier, shall not connect with or energize any electrical installation, coming under the provisions of this act, ~~unless the owner or a licensed electrical contractor has delivered to the power supplier an inspection tag, issued has been conducted and resulted as "passed" by the administrator, covering the installation to be energized. Immediately after an installation has been~~ Electrical installations approved by the board and addressed through administrative rule may be connected and energized, by the power supplier shall deliver to after the administrator or his authorized agent, the inspection tag covering such installation purchase of an electrical permit by a licensed electrical contractor.

(4) It shall be unlawful for any person, partnership, company, firm, association or corporation other than a power supplier, ~~to energize any electrical installation coming under the provisions of this act unless an application for prior to the purchase of an electrical inspection tag, permit covering such installation, together with the inspection fee herein provided, has been forwarded to the administrator.~~

SECTION 8. That Section 54-1008, Idaho Code, be, and the same is hereby amended to read as follows:

54-1008. DURATION OF LICENSE. (1) All licenses, including license renewals, for master electricians, journeyman electricians and specialty journeyman electricians shall ~~be issue~~ issued for a period of three (3) years, and shall expire three (3) years from the date of issue unless renewed, revoked or suspended.

(2) Electrical contractor and specialty electrical contractor licenses ~~issued after July 1, 2002,~~ shall ~~be issue~~ issued for a period of one (1) year and shall expire one (1) year from the date of issue unless renewed, revoked or suspended.

(3) Electrical apprentice registrations issued or renewed ~~after July 1, 2009,~~ shall be issued for a period of five (5) years.

(4) Electrical specialty trainee registrations ~~issued or renewed after July 1, 2009,~~ shall be issued for a period of three (3) years.

(5) Facility account licenses shall be issued and renewed for a period of one (1) year.

(6) Each licensing period and each registration period shall end at midnight on the last day of the month of the licensing or registration period. Licenses and registrations not renewed by this date shall have expired.

(67) The board shall promulgate rules to provide for a staggered system of issuing and renewing licenses.

SECTION 9. That Section 54-1009, Idaho Code, be, and the same is hereby amended to read as follows:

54-1009. REVOCATION OR SUSPENSION OF LICENSES -- HEARINGS -- TAKING TESTIMONY. (1) The administrator shall have power to revoke or suspend any license or registration if the same was obtained through error or fraud, or

if the holder thereof is shown to be grossly incompetent, or has willfully violated any of the rules prescribed by the board, or as prescribed in this chapter; or has, after due notice, failed or refused to correct, within the specified time, any electrical installation not in compliance with the provisions of this chapter, or has failed to pay within the time provided, civil penalties which have become final by operation of law.

(2) The administrator shall have the power to ~~revoke or~~ suspend any electrical contractor or electrical specialty contractor license if, at any time during the term of active contractor or specialty contractor licensure, the licensee failed to maintain required liability insurance or applicable worker's compensation insurance.

(3) Before any license shall be revoked or suspended, the holder thereof shall have written notice enumerating the charges against him, and shall be given a hearing by said administrator, and have an opportunity to produce testimony in his behalf, at a time and place specified in said notice, which time shall not be less than five (5) days after the service thereof.

(a) The proceedings shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(b) Any party aggrieved by the action of the administrator shall be entitled to judicial review thereof in accordance with the provisions of chapter 52, title 67, Idaho Code.

(4) The administrator shall have the power to appoint, by an order in writing, a hearing officer to take testimony, who shall have power to administer oaths, issue subpoenas and compel the attendance of witnesses, and the decision of the administrator shall be based on his examination of the testimony taken and the records produced. Any person whose license has been revoked may, after the expiration of one (1) year from the date of such revocation, but not before, apply for a new license.

SECTION 10. That Section 54-1010, Idaho Code, be, and the same is hereby amended to read as follows:

54-1010. INSTALLATIONS BY ELECTRICAL CONTRACTOR PERFORMED BY LICENSED JOURNEYMAN -- PRIOR CERTIFICATE HOLDERS ENTITLED TO LICENSE -- LIST OF ELECTRICIANS IN CONTRACTOR'S EMPLOY. (1) ~~On and after July 1, 1961, a~~Any electrical contractor who works as a journeyman electrician, as herein defined, shall be required to have a journeyman electrician's license or master electrician's license issued under the provisions of this act. All installations of electrical wiring, equipment or apparatus made by an electrical contractor shall be done by or under the direct supervision of a licensed journeyman electrician or licensed master electrician.

(2) The individual owner of an electrical contracting business may act as his own journeyman electrician or master electrician provided that he has complied with the provisions of section 54-1002, Idaho Code, pertaining to journeyman electrician. Each electrical contractor in this state shall, upon request of the administrator, or his authorized agent, furnish a list of journeyman electricians in said electrical contractor's employ.

(3) ~~From and after July 1, 1986, a~~Any individual working as an apprentice electrician, as defined in this act, must be registered with the division of building safety, as an apprentice electrician, as provided in section 54-1007, Idaho Code; and it shall be unlawful for an individual to work as an apprentice electrician without possessing a current apprentice registration certificate.

(4) ~~On and after July 1, 1999, a~~Any individual working as a specialty electrical trainee, as defined in this chapter, must be registered with the division of building safety, as a specialty electrical trainee. It shall be unlawful for an individual to work as a specialty electrical trainee without possessing a current registration certificate.

SECTION 11. That Section 54-1014, Idaho Code, be, and the same is hereby amended to read as follows:

54-1014. FEES. The administrator of the division of building safety shall charge the following fees:

(1) Application for license	\$ 15.00
(2) One-year licenses:	
(a) Electrical contractor license	\$125.00
(b) Electrical contractor license renewal	100.00
(c) Electrical contractor license revival	125.00
(d) Specialty contractor license	125.00
(e) Specialty contractor license renewal	100.00
(f) Specialty contractor license revival	125.00
(g) <u>Facility account license</u>	<u>125.00</u>
(3) <u>Three-year licenses</u> , in accordance with sections 54-1008 and	

54-1013, Idaho Code:

(a) Master electrician license	\$65.00
(b) Master electrician license renewal	45.00
(c) Master electrician license revival	55.00
(d) Journeyman electrician license	55.00
(e) Journeyman electrician license renewal	45.00
(f) Journeyman electrician license revival	55.00
(g) Specialty journeyman electrician license	55.00
(h) Specialty journeyman electrician license renewal	45.00
(i) Specialty journeyman electrician license revival	55.00
(j) Specialty trainee registration and working license	30.00

(i) At the time the specialty trainee applies for a specialty journeyman electrician license, the pro rata value of any remaining time on a specialty trainee working license shall be credited toward the purchase of the specialty journeyman electrician license.

(4) Five-year licenses, in accordance with sections 54-1008 and 54-1013, Idaho Code:

(a) Apprentice electrician registration and working license	\$50.00
(i) At the time the apprentice applies for a journeyman electrician license, the pro rata value of any remaining time on an apprentice electrician working license shall be credited toward the purchase of the journeyman electrician license.	

SECTION 12. 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 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 of ~~the person's 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.

(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 ~~and electrical connections to the water heater~~ as long as the disconnect is in sight from the unit and the circuit from the disconnecting means to the water heater is no more than fifty (50) feet long.

(b) Individuals holding a current HVAC license may install:

(i) Electrical space heaters with no attached ductwork;

(ii) Electrical connections to HVAC equipment from the disconnecting means to the unit as long as the disconnect is in sight from the unit and the circuit from the disconnecting means to the HVAC equipment is no more than fifty (50) feet long; and

(iii) Ventilating fans, except ducted range hoods in residences.

(c) HVAC licensees may install control wiring of twenty-four (24) 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.

(4) To the extent that a plumbing or HVAC installation permit issued by the Idaho division of building safety includes any part of an electrical installation, the permit issued and inspection performed shall be sufficient to satisfy the permitting and inspecting requirements of this chapter if all required permit fees have been paid.

(5) Approval and certification requirements of product and equipment as set forth in this chapter and in the adopted edition of the national electrical code do not apply to industrial equipment 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.

Approved March 20, 2018

CHAPTER 209
(H.B. No. 480)

AN ACT

RELATING TO ELECTRICAL CONTRACTORS AND JOURNEYMEN; AMENDING SECTION 54-1002, IDAHO CODE, TO PROVIDE FOR LIMITED ELECTRICAL INSTALLERS, TO PROVIDE FOR TRAINEES, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1003, IDAHO CODE, TO PROVIDE FOR LIMITED ELECTRICAL INSTALLERS, TO PROVIDE FOR LIMITED ELECTRICAL INSTALLER TRAINEES AND TO REVISE TERMINOLOGY; AMENDING SECTION 54-1003A, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1004, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1005, IDAHO CODE, TO PROVIDE FOR LIMITED ELECTRICAL INSTALLERS, TO PROVIDE FOR LIMITED ELECTRICAL INSTALLER TRAINEES, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1006, IDAHO CODE, TO PROVIDE FOR LIMITED ELECTRICAL INSTALLERS, TO PROVIDE FOR LIMITED ELECTRICAL INSTALLER TRAINEES, TO REVISE TERMINOLOGY, AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1007, IDAHO CODE, TO PROVIDE FOR LIMITED ELECTRICAL INSTALLERS, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1008, IDAHO CODE, TO PROVIDE FOR LIMITED ELECTRICAL INSTALLERS, TO PROVIDE FOR LIMITED ELECTRICAL INSTALLER TRAINEES, TO REMOVE A PROVISION REGARDING WHEN A LICENSE IS ISSUED OR RENEWED AND TO REVISE TERMINOLOGY; AMENDING SECTION 54-1009, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1010, IDAHO CODE, TO PROVIDE FOR LIMITED ELECTRICAL INSTALLER TRAINEES, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1013, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1014, IDAHO CODE, TO PROVIDE FOR LIMITED ELECTRICAL INSTALLERS, TO PROVIDE FOR LIMITED ELECTRICAL CONTRACTORS, TO PROVIDE FOR LIMITED ELECTRICAL INSTALLER TRAINEES AND TO REVISE TERMINOLOGY; AMENDING SECTION 54-1016, IDAHO CODE, TO PROVIDE THAT INDIVIDUALS HOLDING A CERTAIN LICENSE MAY INSTALL CERTAIN ELECTRICAL CIRCUITRY AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 54-1017, IDAHO CODE, TO PROVIDE FOR LIMITED ELECTRICAL INSTALLERS, TO PROVIDE FOR LIMITED ELECTRICAL CONTRACTORS, TO PROVIDE FOR LIMITED ELECTRICAL INSTALLER TRAINEES, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-1002, Idaho Code, be, and the same is hereby amended to read as follows:

54-1002. LICENSE ESSENTIAL TO ENGAGE IN BUSINESS -- LICENSURE AUTHORITY EXCLUSIVE TO THE STATE. (1) It shall be unlawful for any person, partnership, company, firm, association or corporation, to act, or attempt to act, as an electrical contractor or special limited electrical contractor in this state until such person, partnership, company, firm, association or corporation, shall have received a license as an electrical contractor or limited

electrical contractor, as herein defined, issued pursuant to the provisions of this chapter by the administrator of the division of building safety.

(2) It shall be unlawful for any person to act as a journeyman electrician in this state until such person shall have received a license as a journeyman electrician, as herein defined, issued pursuant to the provisions of this act, by the administrator of the division of building safety, provided, however, that any person who has been issued a master electrician's license pursuant to this chapter may act as a journeyman electrician.

(3) It shall be unlawful for any person to act as a ~~specialty electrician~~ limited electrical installer in this state until such person shall have received a license as a ~~specialty electrician~~ limited electrical installer, as herein defined, issued pursuant to the provisions of this act, by the administrator of the division of building safety, provided however, that any person who has been issued a master electrician's license or a journeyman electrician's license pursuant to this act may act as a ~~specialty electrician~~ limited electrical installer.

(4) Licensure of electrical contractors, journeyman electricians, master electricians, ~~specialty electricians~~ limited electrical installers, ~~specialty~~ limited electrical contractors and registration of apprentice electricians and trainees shall be within the exclusive jurisdiction of the state pursuant to this chapter and no local jurisdiction shall have the authority to require additional licensure or to require payment of any fees in order for any licensee to engage in the electrical construction trade within the local jurisdiction or to issue licenses to persons licensed under this chapter which that are inconsistent with the provisions of this chapter or rules promulgated by the division of building safety. The state shall investigate all local infractions and state violations of this chapter and prosecute the same. The local jurisdictions will assist the state by requesting investigations within their jurisdictions. Nothing in this chapter shall restrict a city or county from imposing stricter public safety rules, notwithstanding any provision of Idaho Code.

SECTION 2. That Section 54-1003, Idaho Code, be, and the same is hereby amended to read as follows:

54-1003. ADMINISTRATOR AUTHORITY. (1) Only the administrator of the division of building safety of the state of Idaho is authorized and empowered to conduct examinations and to pass upon the qualifications of applicants, and to grant and issue licenses or registrations to such applicants as are found to be qualified to engage in the trade, business or calling of a journeyman electrician, electrical contractor, master electrician, ~~specialty electrician~~ limited electrical installer, ~~specialty~~ limited electrical contractor, ~~specialty~~ limited electrical installer trainee or apprentice electrician in the manner and upon the terms and conditions hereinafter provided.

(2) No licenses granted hereunder shall be transferable. Licenses shall be issued upon the condition that the holder thereof shall comply with all provisions of this chapter.

(3) The administrator of the division of building safety is authorized to impose civil penalties as provided in this chapter.

SECTION 3. That Section 54-1003A, Idaho Code, be, and the same is hereby amended to read as follows:

54-1003A. DEFINITIONS. (1) Electrical Contractor. Except as provided in section 54-1016, Idaho Code, any person, partnership, company, firm, association or corporation engaging in, conducting, or carrying on the business of installing wires or equipment to carry electric current or installing apparatus to be operated by such current, or entering into

agreements to install such wires, equipment or apparatus, shall for the purpose of this act be known as an electrical contractor. An electrical contractor, prior to being issued a license, shall be required to provide proof of liability insurance in the amount of three hundred thousand dollars (\$300,000) and proof of worker's compensation insurance if applicable.

(2) Journeyman Electrician. Except as provided in section 54-1016, Idaho Code, and subsections (3), (4), (5) and (6) of this section, any person who personally performs or supervises the actual physical work of installing electric wiring or equipment to convey electric current, or apparatus to be operated by such current, shall for the purpose of this act be known as a journeyman electrician.

(3) Apprentice Electrician. Any person who, for the purpose of learning the trade of journeyman electrician, engages in the installation of electric wiring, equipment, or apparatus while under the constant on-the-job supervision of a qualified journeyman electrician shall for the purpose of this act be known as an apprentice electrician.

(4) Maintenance Electrician. Any person who is regularly employed to service, maintain or repair electrical apparatus, or to make minor repairs or alterations to existing electrical wires or equipment located on his employer's premises shall for the purpose of this act be known as a maintenance electrician.

(5) Master Electrician. A person who has the necessary qualifications, training, experience and technical knowledge to plan, layout lay out or design the installation of electrical wiring or equipment, or to supervise such planning, layout, or design, and who performs or supervises such planning, layout or design, shall for the purpose of this act be known as a master electrician.

(6) ~~Specialty Electrician Limited Electrical Installer~~. A person having the necessary qualifications, training, experience and technical knowledge to install, alter, repair and supervise the installing, altering or repairing of special classes of electrical wiring, apparatus or equipment within categories adopted by the board. ~~Specialty electricians Limited electrical installers~~ shall perform work only within the scope of the ~~specialty restricted~~ category for which the person is licensed.

(7) ~~Specialty Limited Electrical Contractor~~. Except as provided in section 54-1016, Idaho Code, any person, partnership, company, firm, association or corporation engaging in, conducting or carrying on the business of installing, altering or repairing ~~special classes restricted categories~~ of electrical wiring, apparatus or equipment within ~~categories~~ adopted by the board, or entering into agreements to perform such ~~specialty restricted~~ work, shall for the purpose of this act be known as a ~~specialty limited electrical contractor~~. ~~Specialty Limited electrical contractors~~ shall perform work only within the scope of the ~~specialty restricted~~ category for which the contractor is licensed. A ~~specialty limited electrical contractor~~, prior to being issued a license, shall be required to provide proof of liability insurance in the amount of three hundred thousand dollars (\$300,000) and proof of worker's compensation insurance if applicable.

(8) ~~Specialty Limited Electrical Installer Trainee~~. Any person who ~~for the purpose of learning the trade of a specialty electrician~~, engages in the installation of ~~restricted categories of electrical wiring, equipment or apparatus while under the constant on-the-job supervision of a qualified specialty electrician limited electrical installer~~ shall for the purpose of this act be known as a ~~specialty limited electrical installer trainee~~.

SECTION 4. That Section 54-1004, Idaho Code, be, and the same is hereby amended to read as follows:

54-1004. INSPECTION OF ELECTRICAL INSTALLATIONS -- NOTICE OF DEFECTS -- DISCONNECTING ELECTRICAL SERVICE. The administrator of the division

of building safety may, during reasonable hours, inspect, re-inspect or test any electrical installation coming under the provisions of this act. If, upon inspection, any electrical installation is found to be not in conformity with the provisions of this act, the person, partnership, company, firm, association or corporation making such installation shall immediately be notified, in writing. The notice shall clearly indicate any and all defects to be corrected and specify a definite period of time during which such corrections shall be made. The administrator may cut or disconnect any wire in cases of emergency where necessary for safety of life or property, or order the disconnection of electrical service to any electrical installation, coming under the provisions of this act, when such installation is found to be dangerous to life or property.

SECTION 5. That Section 54-1005, Idaho Code, be, and the same is hereby amended to read as follows:

54-1005. RULES -- INSPECTIONS -- INSPECTION TAGS AND FEES. (1) The administrator of the division of building safety is hereby authorized and directed to enforce rules consistent with this act for the administration of this act and to effectuate the purposes thereof, and for the examination and licensing of electrical contractors, journeyman electricians, master electricians, ~~specialty electricians~~ limited electrical installers, ~~specialty~~ limited electrical contractors, ~~specialty~~ limited electrical installer trainees and apprentice electricians, and to make inspections of electrical installations referred to in section 54-1001, Idaho Code, and to issue inspection tags covering such installations, and to collect the fees established therefor.

(2) The administrator of the division of building safety may make electrical inspections for another state or local jurisdiction upon request by an appropriate building official. Such inspections shall be made in accordance with the applicable electrical codes of the requesting jurisdiction. Fees charged for such inspection services shall be as provided in the rules promulgated by the board.

(3) Individuals, firms, cooperatives, corporations, or municipalities selling electricity, hereinafter known as the power supplier, shall not connect with or energize any electrical installation, coming under the provisions of this act, unless the owner or a licensed electrical contractor has delivered to the power supplier an inspection tag, issued by the administrator, covering the installation to be energized. Immediately after an installation has been energized, the power supplier shall deliver to the administrator or his authorized agent, the inspection tag covering such installation.

(4) It shall be unlawful for any person, partnership, company, firm, association or corporation other than a power supplier, to energize any electrical installation coming under the provisions of this act unless an application for an electrical inspection tag, covering such installation, together with the inspection fee herein provided, has been forwarded to the administrator.

SECTION 6. That Section 54-1006, Idaho Code, be, and the same is hereby amended to read as follows:

54-1006. IDAHO ELECTRICAL BOARD. (1) The Idaho electrical board, hereinafter known as the board, is hereby created and made a part of the division of building safety. It shall be the responsibility and duty of the administrator of the division of building safety to administer and enforce the provisions of this act, and to serve as secretary to the Idaho electrical board.

(2) The board shall consist of nine (9) members to be appointed by the governor 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 specialty journeyman 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 act.

(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 act for the administration of this chapter, and to effectuate the purpose thereof, and for the examination and licensing of electrical contractors, journeyman electricians, master electricians, ~~specialty electricians~~ limited electrical installers, ~~specialty limited electrical contractors~~, specialty limited electrical installer trainees and apprentice electricians. The board shall also establish the classifications categories for ~~specialty electrician~~ limited electrical installers and specialty 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 7. That Section 54-1007, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

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

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

SECTION 8. That Section 54-1008, Idaho Code, be, and the same is hereby amended to read as follows:

54-1008. DURATION OF LICENSE. (1) All licenses, including license renewals, for master electricians, journeyman electricians and ~~specialty journeyman electricians~~ limited electrical installers shall ~~issue~~ be issued for a period of three (3) years, and shall expire three (3) years from the date of issue unless renewed, revoked or suspended.

(2) Electrical contractor and ~~specialty~~ limited electrical contractor licenses issued after July 1, 2002, shall ~~issue~~ be issued for a period of one (1) year and shall expire one (1) year from the date of issue unless renewed, revoked or suspended.

(3) Electrical apprentice registrations issued or renewed after July 1, 2009, shall be issued for a period of five (5) years.

(4) Limited eElectrical specialty installer trainee registrations ~~issued or renewed after July 1, 2009,~~ shall be issued for a period of three (3) years.

(5) Each licensing period and each registration period shall end at midnight on the last day of the month of the licensing or registration period. Licenses and registrations not renewed by this date shall have expired.

(6) The board shall promulgate rules to provide for a staggered system of issuing and renewing licenses.

SECTION 9. That Section 54-1009, Idaho Code, be, and the same is hereby amended to read as follows:

54-1009. REVOCATION OR SUSPENSION OF LICENSES -- HEARINGS -- TAKING TESTIMONY. (1) The administrator shall have power to revoke or suspend any license if the same was obtained through error or fraud, or if the holder thereof is shown to be grossly incompetent, or has willfully violated any of the rules prescribed by the board, or as prescribed in this chapter; or has, after due notice, failed or refused to correct, within the specified time, any electrical installation not in compliance with the provisions of this chapter, or has failed to pay within the time provided, civil penalties which have become final by operation of law.

(2) The administrator shall have the power to revoke or suspend any electrical contractor or limited electrical specialty contractor license if, at any time during the term of active contractor or specialty limited contractor licensure, the licensee failed to maintain required liability insurance or applicable worker's compensation insurance.

(3) Before any license shall be revoked or suspended, the holder thereof shall have written notice enumerating the charges against him, and shall be given a hearing by said administrator, and have an opportunity to produce testimony in his behalf, at a time and place specified in said notice, which time shall not be less than five (5) days after the service thereof.

(a) The proceedings shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(b) Any party aggrieved by the action of the administrator shall be entitled to judicial review thereof in accordance with the provisions of chapter 52, title 67, Idaho Code.

(4) The administrator shall have the power to appoint, by an order in writing, a hearing officer to take testimony, who shall have power to administer oaths, issue subpoenas and compel the attendance of witnesses, and the decision of the administrator shall be based on his examination of the testimony taken and the records produced. Any person whose license has been revoked may, after the expiration of one (1) year from the date of such revocation, but not before, apply for a new license.

SECTION 10. That Section 54-1010, Idaho Code, be, and the same is hereby amended to read as follows:

54-1010. INSTALLATIONS BY ELECTRICAL CONTRACTOR PERFORMED BY LICENSED JOURNEYMAN -- PRIOR CERTIFICATE HOLDERS ENTITLED TO LICENSE -- LIST OF ELECTRICIANS IN CONTRACTOR'S EMPLOY. (1) On and after July 1, 1961, any electrical contractor who works as a journeyman electrician, as herein defined, shall be required to have a journeyman electrician's license issued under the provisions of this act. All installations of electrical wiring, equipment or apparatus made by an electrical contractor shall be done by or under the direct supervision of a licensed journeyman electrician.

(2) The individual owner of an electrical contracting business may act as his own journeyman electrician provided that he has complied with the provisions of section 54-1002, Idaho Code, pertaining to journeyman electrician. Each electrical contractor in this state shall, upon request of the administrator, or his authorized agent, furnish a list of journeyman electricians in said electrical contractor's employ.

(3) From and after July 1, 1986, any individual working as an apprentice electrician, as defined in this act, must be registered with the division of building safety, as an apprentice electrician, as provided in section 54-1007, Idaho Code; and it shall be unlawful for an individual to work as an apprentice electrician without possessing a current apprentice registration certificate.

(4) On and after July 1, 1999, any individual working as a specialty limited electrical installer trainee, as defined in this chapter, must be registered with the division of building safety, as a specialty limited electrical installer trainee. It shall be unlawful for an individual to work as a specialty limited electrical installer trainee without possessing a current registration certificate.

SECTION 11. That Section 54-1013, Idaho Code, be, and the same is hereby amended to read as follows:

54-1013. RENEWAL OF LICENSES OR REGISTRATIONS -- INACTIVE LICENSES. (1) A license or registration once issued under this chapter, unless revoked or suspended as herein provided, may be renewed at any time during the final month of the licensing period on the payment of the renewal fee herein specified, proof of satisfaction of applicable continuing education requirements as established by the electrical board, proof of satisfaction of applicable apprentice and specialty trainee instruction and work requirements as established by the electrical board, and provided that all outstanding civil penalties, and permit or other fees, have been paid in full, and all outstanding correction notices have been satisfactorily resolved. For electrical contractors and specialty electrical contractors, proof of liability insurance in the amount of three hundred thousand dollars (\$300,000) shall also be required, and proof of worker's compensation insurance shall be required if applicable.

(2) Any license ~~which~~ that has expired may be revived at any time within one (1) year from the last day of the final month of the licensing period, by payment of the revival fee herein specified, together with all outstanding civil penalties, and permit or other fees and penalties, and upon proof that outstanding correction notices have been satisfactorily resolved. For electrical contractors and specialty limited electrical contractors, proof of liability insurance in the amount of three hundred thousand dollars (\$300,000) shall also be required, and proof of worker's compensation insurance shall be required if applicable.

(3) Certificates of competency issued prior to July 1, 1961, shall, for the purpose of this chapter, be considered as licenses and may be renewed or revived as herein provided.

(4) The administrator may renew, on an inactive basis, the license of an electrical contractor or specialty limited electrical contractor who is not engaged in electrical contracting in this state. The board shall fix and collect an inactive license fee for such an inactive license renewal in an amount not to exceed one hundred fifty dollars (\$150). Each inactive license shall be issued for a period of one (1) year. An electrical contractor or specialty limited electrical contractor holding an inactive license may not engage in the practice of electrical contracting or specialty limited electrical contracting in this state. If an electrical contractor or specialty limited electrical contractor wishes to convert his inactive license to an active license, he may do so by paying a processing fee of thirty dollars

(\$30.00) and providing proof of the required liability insurance and applicable worker's compensation insurance.

SECTION 12. That Section 54-1014, Idaho Code, be, and the same is hereby amended to read as follows:

54-1014. FEES. The administrator of the division of building safety shall charge the following fees:

- | | |
|--|----------|
| (1) Application for license | \$ 15.00 |
| (2) One-year licenses: | |
| (a) Electrical contractor license | \$125.00 |
| (b) Electrical contractor license renewal | 100.00 |
| (c) Electrical contractor license revival | 125.00 |
| (d) Specialty Limited electrical contractor license | 125.00 |
| (e) Specialty Limited electrical contractor license renewal | 100.00 |
| (f) Specialty Limited electrical contractor license revival | 125.00 |
| (3) Three-year licenses, in accordance with sections 54-1008 and 54-1013, Idaho Code: | |
| (a) Master electrician license | \$65.00 |
| (b) Master electrician license renewal | 45.00 |
| (c) Master electrician license revival | 55.00 |
| (d) Journeyman electrician license | 55.00 |
| (e) Journeyman electrician license renewal | 45.00 |
| (f) Journeyman electrician license revival | 55.00 |
| (g) Specialty journeyman electrician Limited electrical installer license | 55.00 |
| (h) Specialty journeyman electrician Limited electrical installer license renewal | 45.00 |
| (i) Specialty journeyman electrician Limited electrical installer license revival | 55.00 |
| (j) Specialty Limited electrical installer trainee registration and working license | 30.00 |
| (i) At the time the specialty limited electrical installer trainee applies for a specialty journeyman electrician limited electrical installer license, the pro rata value of any remaining time on a specialty limited electrical installer trainee working license shall be credited toward the purchase of the specialty journeyman electrician limited electrical installer license. | |
| (4) Five-year licenses, in accordance with sections 54-1008 and 54-1013, Idaho Code: | |
| (a) Apprentice electrician registration and working license | \$50.00 |
| (i) At the time the apprentice applies for a journeyman electrician license, the pro rata value of any remaining time on an apprentice electrician working license shall be credited toward the purchase of the journeyman electrician license. | |

SECTION 13. 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 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 of the person's employer;

(c) Any telephone company, rural telephone cooperative, or municipal communications utility, its employees, its subsidiaries, and employees of the subsidiaries performing work on customer-owned facilities under the exclusive control of the telephone company, rural telephone cooperative, or municipal communications utility;

(d) Any telephone company, rural telephone cooperative, or municipal communications utility, its employees, its subsidiaries, and employees of the subsidiaries performing repair work on customer-owned facilities at the request of the customer;

(e) Any electrical public utility, rural electrical cooperative, municipal power utility, its employees, its subsidiaries, and employees of the subsidiaries performing work on customer-owned facilities under the exclusive control of the electrical public utility, rural electrical cooperative, or municipal power utility; and

(f) Any electrical public utility, rural electrical cooperative, municipal power utility, its employees, its subsidiaries, and employees of the subsidiaries performing emergency repair work on customer-owned facilities at the request of the customer.

(3) The licensing provisions of this chapter shall not apply to individuals licensed pursuant to chapter 50, title 54, Idaho Code, or certified pursuant to chapter 26, title 54, Idaho Code, as follows:

(a) Individuals holding a current heating, ventilation and air conditioning (HVAC) license or a current plumbing certification may install electrical circuitry from the disconnecting means to a water heater and electrical connections to the water heater as long as the disconnect is in sight from the unit and the circuit from the disconnecting means to the water heater is no more than fifty (50) feet long.

(b) Individuals holding a current HVAC license may install:

(i) Electrical space heaters with no attached ductwork;

(ii) Electrical connections to HVAC equipment from the disconnecting means to the unit as long as the disconnect is in sight from the unit and the circuit from the disconnecting means to the HVAC equipment is no more than fifty (50) feet long; and

(iii) Ventilating fans, except ducted range hoods in residences.

(c) HVAC licensees may install control wiring of twenty-four (24) 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 elec-

trical 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 equipment unless the board has made a determination that such product, machine or classes of products and machines present an undue hazard to life and property.

SECTION 14. That Section 54-1017, Idaho Code, be, and the same is hereby amended to read as follows:

54-1017. VIOLATIONS OF ACT A MISDEMEANOR. Any person, partnership, company, firm, association or corporation who shall engage in the trade, business or calling of an electrical contractor, journeyman electrician, master electrician, ~~specialty electrician~~ limited electrical installer, ~~specialty~~ limited electrical contractor, ~~specialty~~ limited electrical installer trainee or apprentice electrician without a license or required registration as provided for by this act, or who shall violate any of the provisions of this act, or the rules of the Idaho electrical board or of the administrator of the division of building safety herein provided for, or who shall refuse to perform any duty lawfully enjoined upon him by the administrator within the prescribed time~~+~~, or who shall fail, neglect, or refuse to obey any lawful order given or made by the administrator shall be guilty of a misdemeanor and shall be subject to the civil penalties established by administrative rule but not to exceed one thousand dollars (\$1,000). Each day of such violation shall constitute a separate offense. A violation will be considered a second or additional offense only if it occurs within one (1) year from the first violation.

Approved March 20, 2018

CHAPTER 210
(H.B. No. 483)

AN ACT

RELATING TO HEATING, VENTILATION AND AIR CONDITIONING SYSTEMS; AMENDING SECTION 54-5010, IDAHO CODE, TO PROVIDE THAT A HEATING, VENTILATION AND AIR CONDITIONING APPRENTICE MAY TAKE A JOURNEYMAN'S EXAMINATION IN CERTAIN INSTANCES; AND AMENDING SECTION 54-5011, IDAHO CODE, TO CLARIFY TERMINOLOGY AND TO REMOVE AN OBSOLETE PROVISION.

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

SECTION 1. That Section 54-5010, Idaho Code, be, and the same is hereby amended to read as follows:

54-5010. EXAMINATIONS -- NOTIFICATION -- APPLICATION. (1) The Idaho heating, ventilation and air conditioning board shall establish by rule the requirements as to education, continuing education and examinations relating to classifications of competency.

(2) Times and places for examinations shall be determined by the board and all applicants shall be notified thereof.

(3) All applications for examination shall be filed with the board on a form provided by the board. When any person is designated and authorized to be or act as an agent for the applicant, such authorization shall be in writing, signed by the applicant and the person designated, a certified copy of which shall be filed with the board. All applications shall expire and be canceled after a period of one (1) year if the applicant fails to appear for examination within such period.

(4) A heating, ventilation and air conditioning apprentice, as defined in section 54-5003(2), Idaho Code, may take the journeyman's examination if the apprentice has completed the required related instruction for a heating, ventilation and air conditioning apprentice, as approved by the board, in conjunction with the state board for career technical education and has worked the required number of hours as prescribed by the Idaho heating, ventilation and air conditioning board.

SECTION 2. That Section 54-5011, Idaho Code, be, and the same is hereby amended to read as follows:

54-5011. ISSUANCE OF CERTIFICATE OF COMPETENCY. ~~On and after July 1, 2004,~~ a A certificate of competency in the form of a card shall be issued to an applicant upon successful completion of the examination. The card shall include the holder's name, classification for which the applicant was examined, the year for which the card is current, the holder's signature, certificate number, and the signature of the administrator of the division of building safety.

Approved March 20, 2018

CHAPTER 211
(H.B. No. 484)

AN ACT

RELATING TO PLUMBING AND PLUMBERS; AMENDING SECTION 54-2617, IDAHO CODE, TO REMOVE A PROVISION REGARDING INACTIVE CERTIFICATES OF COMPETENCY AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-2617, Idaho Code, be, and the same is hereby amended to read as follows:

54-2617. CERTIFICATE EXPIRATION -- RENEWAL -- INACTIVE LICENSE -- TEMPORARY CONTRACTOR LICENSE -- RULES FOR STAGGERED SCHEDULE. (1) Certificates of competency shall be issued for a period of three (3) years, and shall expire three (3) years from the date of issue, unless sooner revoked or suspended.

(2) A certificate of competency for plumbing contractor or journeyman may be renewed at any time during the month prior to its expiration by providing proof of completion of the continuing education requirements as established by the board and compliance with all other renewal requirements of statute or rule. A certificate of competency for plumbing specialty contractor and specialty journeyman may be renewed at any time during the month prior to its expiration by compliance with all renewal requirements of statute or rule.

(3) Failure of any holder to timely renew a certificate of competency shall cause lapse of the certificate, but it may be revived within two (2) years without examination only upon payment of the full initial fee.

(4) The administrator may renew, on an inactive basis, a certificate of competency for plumbing contractor or specialty contractor who is not engaged in plumbing contracting in this state. The board shall fix and collect an inactive license fee for such an inactive license renewal in an amount not to exceed thirty-six dollars (\$36.00). ~~Each inactive certificate of competency shall be issued for a period of one (1) year.~~ A plumbing contractor or specialty contractor holding an inactive license may not engage in the practice of plumbing contracting or specialty contracting in this state. A plumbing contractor or specialty contractor's inactive license may be converted to an active license by paying a processing fee of thirty dollars (\$30.00) to the administrator, by providing proof of completion of the continuing education requirements for the duration of the inactive period that would have been required during that period for an active license, and by furnishing a compliance bond in the amount of two thousand dollars (\$2,000) or evidence of such coverage by a corporate industry group bond acceptable to the board.

(5) In the event that a plumbing contractor dies or becomes otherwise incapacitated, a temporary plumbing contractor certificate of competency may be issued to an applicant who holds an active Idaho journeyman certificate of competency to represent the firm, company, copartnership, association or corporation previously represented by the deceased or incapacitated contractor. The holder of a temporary contractor certificate of competency may perform all the acts a plumbing contractor is authorized to do by this chapter and the rules promulgated by the board, with the exception of procuring a new permit from the division of building safety or from a city or soliciting new work. A temporary contractor certificate of competency shall be valid for a period not longer than ninety (90) days from the date it is issued, and it may be renewed one (1) time by the administrator upon written request of the holder of the certificate.

(6) The board shall promulgate rules to provide for a staggered schedule of issuing and renewing certificates of competency.

Approved March 20, 2018

CHAPTER 212
(H.B. No. 497)

AN ACT

RELATING TO TOWING AND STORAGE OF MOTOR VEHICLES; AMENDING SECTION 49-1803A, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE REMOVAL OF VEHICLES AND THE NOTICE OF THE TOWING AND STORAGE OF A MOTOR VEHICLE.

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

SECTION 1. That Section 49-1803A, Idaho Code, be, and the same is hereby amended to read as follows:

49-1803A. REMOVAL OF ACCIDENTS -- DRIVER ARRESTS -- VEHICLES FOUND UNDER EXTRAORDINARY CIRCUMSTANCES. (1) Any authorized officer directing who dispatches a call to request the removal of a vehicle under the authority of this chapter, or the provisions of section 49-662, Idaho Code, as the result of an accident, the driver being arrested or extraordinary circumstances, may cause the vehicle to be placed in the custody of a tow truck operator, all expenses of towing and storage to be those of the registered owner, unless the registered owner has filed a release of liability according to the provisions of section 49-526, Idaho Code, in which case the purchaser or other transferee recorded on the release of liability statement shall be presumed responsible and liable.

(2) At the time of removal, the authorized officer shall complete a notice form containing, but not limited to, the following:

- (a) Name and addresses of registered owner and lienholder;
- (b) Complete vehicle description, including license plate number and vehicle identification number;
- (c) Date, time and reason for tow;
- (d) Law enforcement agency directing tow and case number assigned;
- (e) Appraisal value of vehicle and daily storage rate;
- (f) Authorized officer name or badge number;
- (g) Name, address and telephone number of towing company;
- (h) Signature of tow truck operator taking receipt of vehicle and contents.

(3) A copy of this notice shall be provided to the legal or registered owner at the scene, or may be mailed by first class mail within ninety-six seventy-two (9672) hours, excluding weekends and holidays. A copy of this notice shall also be mailed by first class mail to any lienholder within seventy-two (72) hours, excluding weekends and holidays. This notification shall be in addition to all notices required for vehicle disposal procedures contained in this chapter.

Approved March 20, 2018

CHAPTER 213
(H.B. No. 519)

AN ACT

RELATING TO TITLE INSURANCE; AMENDING SECTION 41-1315A, IDAHO CODE, TO PROVIDE THAT TITLE INSURERS MAY PROVIDE A REIMBURSEMENT OR DISCOUNT OF ESCROW FEES OR TITLE INSURANCE PREMIUMS IN CERTAIN INSTANCES AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 41-2708, IDAHO CODE, TO PROVIDE THAT NOTHING SHALL PROHIBIT TITLE INSURERS FROM PROVIDING A CERTAIN REIMBURSEMENT OR DISCOUNT OF ESCROW FEES OR TITLE INSURANCE PREMIUMS, TO CLARIFY A PROVISION REGARDING PENALTIES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 41-1315A, Idaho Code, be, and the same is hereby amended to read as follows:

41-1315A. DISCOUNTS TO EMPLOYEES. No provision of title 41, Idaho Code, shall be deemed to prohibit allowance by an insurer, agent, or broker to the insurer's or licensee's bona fide full-time salaried employee of a discount from the premium otherwise payable for insurance on the employee's life or health or those of his dependents, or on the employee's property or risks other than property or risks used or involved in business operations of the employee other than as an employee of the insurer, agent, or broker. The amount of discount shall in no event exceed the amount of the agent's commission which that the employer insurer may otherwise pay, or the amount of commission to be received by the employer agent or broker, with respect to the insurance. Title insurers and title insurance agents may provide reimbursements or discounts of escrow fees or title insurance premiums in accordance with chapter 27, title 41, Idaho Code.

SECTION 2. That Section 41-2708, Idaho Code, be, and the same is hereby amended to read as follows:

41-2708. DETERMINATION OF INSURABILITY -- PROHIBITED RISKS -- REBATES. (1) Insurability. No title insurance on real property in the state of Idaho shall be issued unless and until the title insurer or its agent:

- (a) owns or leases, separately or jointly with another, tract indexes and abstract records of the county in which the property is located; and
- (b) has caused to be made a search and examination of the title and a determination of insurability of title in accordance with sound title underwriting practices.

Evidence thereof for each policy shall be preserved and retained in the files of the title insurer or its agent. In lieu of retaining the original copy, the same may be reproduced by any photographic, photostatic, microfilm or microcard type of system or process which that actually reproduces or forms a durable medium for reproducing the original.

(2) Prohibited Risks. No title insurer doing business in this state shall guarantee the payment of deeds of trust or mortgages on real property. Nor shall any title insurer intentionally issue a title insurance policy without showing any outstanding enforceable recorded liens and encumbrances which are of record against the real property, except under circumstances the director of the department of insurance under his ~~rule-making~~ rulemaking powers may approve. Such guaranty of mortgage payments or intentional omission of such outstanding liens and encumbrances in violation hereof shall, upon proof thereof to the satisfaction of the director of the department of insurance, subject the insurer to a fine not to exceed two thousand dollars (\$2,000) and to the revocation of, suspension of, or refusal to renew a certificate of authority.

(3) Rebates. Section 41-1314(1), Idaho Code, shall be applicable to any person or entity and all employees, officers, agents, attorneys and solicitors thereof engaging in the title insurance business, as to rebates and illegal inducements as in said section defined. The words "as inducement to such insurance" and "or in connection therewith" shall be construed to include but not be limited to underwriting premium, agent's commission, abstracting charges, title examination fees, closing charges, escrow fees, trustee fees, and foreclosure fees relating to deeds of trust. No insured in a policy nor any other person directly or indirectly connected with the transaction involving the issuance of a title insurance policy, including but not limited to mortgage brokers, real estate brokers and agents, builders or attorneys, nor any employee, agent or representative or solicitor thereof, shall knowingly receive or accept, directly or indirectly, any such rebate or illegal inducement. No title insurance company or title insurance agent shall quote or make any charge for title insurance to any person less than the currently filed rate for such risk with the department of insurance. Nothing in this section or this title shall be deemed to prohibit a title insurer or title insurance agent from providing a reimbursement or discount of the premium otherwise payable for a title insurance policy and for any escrow fees otherwise charged in a transaction handled by such title insurance company or title insurance agent involving a bona fide employee's residence. Each such person and entity giving or receiving a rebate, illegal inducement or a reduction in rate in violation of this section shall, in addition to the other penalties set forth in title 41, Idaho Code, for violation thereof, be liable for three (3) times the amount of such rebate, illegal inducement or reduced rate.

(4) Forwarding Fees. No person forwarding or directing title insurance business to a title insurer or title insurance agent in Idaho, nor such insurer or agent receiving such business, shall give or receive anything of value, or a portion of the premium, therefor.

Approved March 20, 2018

CHAPTER 214
(H.B. No. 522)

AN ACT

RELATING TO CERTIFICATES OF INSURANCE; AMENDING SECTION 41-1850, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE CONTENT OF CERTIFICATES OF INSURANCE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 41-1850, Idaho Code, be, and the same is hereby amended to read as follows:

41-1850. CERTIFICATES OF INSURANCE. (1) For purposes of this section, the following terms have the following meanings:

(a) "Certificate" or "certificate of insurance" means any document or instrument, no matter how titled or described, which that is prepared or issued as evidence of property or casualty insurance coverage. "Certificate" or "certificate of insurance" shall not include a policy of insurance, insurance binder, policy endorsement or automobile insurance identification card.

(b) "Certificate holder" means any person, other than a policyholder, that requests, obtains or possesses a certificate of insurance.

(c) "Insurance producer" has the same meaning as provided for in chapter 10, title 41, chapter 10, Idaho Code.

(d) "Insurer" has the same definition as provided for in section 41-103, Idaho Code.

(e) "Person" means any individual, partnership, corporation, association or other legal entity, including any government or governmental subdivision or agency.

(f) "Policyholder" means a person who that has contracted with a property or casualty insurer for insurance coverage.

(g) "Group master policy" means an insurance policy that provides coverage to eligible persons on a group basis through a group insurance program.

(2) No person, wherever located, may prepare, issue or knowingly request the issuance of a certificate of insurance unless the form has been filed with the director by or on behalf of an insurer. No person, wherever located, may alter or modify a certificate of insurance form unless the alteration or modification has been filed with the director.

(3) The director shall disapprove the use of any form filed under this section, or withdraw approval of a form, if the form:

(a) Is unfair, misleading or deceptive, or violates public policy;

(b) Fails to comply with the requirements of this section; or

(c) Violates any provision of title 41, Idaho Code, including any rule promulgated by the director.

(4) Each certificate of insurance must contain the following or similar statement: "This certificate of insurance is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not alter, amend or extend the coverage, terms, exclusions and conditions afforded by the policies referenced herein."

(5) The current edition of standard certificate of insurance forms promulgated and filed with the director by the association for cooperative operations research and development (ACORD) or the insurance services office (ISO) are not required to be refiled by individual insurers.

(6) No person, wherever located, shall demand or request the issuance of a certificate of insurance or other document, record or correspondence that the person knows contains any false or misleading information or that purports to affirmatively or negatively alter, amend or extend the coverage provided by the policy of insurance to which the certificate makes reference.

(7) No person, wherever located, may knowingly prepare or issue a certificate of insurance or other document, record or correspondence that contains any false or misleading information or that purports to affirmatively or negatively alter, amend or extend the coverage provided by the policy of insurance to which the certificate makes reference.

(8) The provisions of this section shall apply to all certificate holders, policyholders, insurers, insurance producers and certificate of insurance forms issued as evidence of property or casualty insurance coverages on property, operations or risks located in this state, regardless of where the certificate holder, policyholder, insurer or insurance producer is located.

(9) A certificate of insurance is not a policy of insurance and does not affirmatively or negatively alter, amend or extend the coverage afforded by the policy to which the certificate of insurance makes reference. A certificate of insurance shall not confer to a certificate holder new or additional rights beyond what the referenced policy of insurance provides.

~~(10) No certificate of insurance shall contain references to contracts other than the underlying contracts of insurance, including construction or service contracts~~ A certificate of insurance may not warrant that the policy of insurance referenced in the certificate comply with the insurance or indemnification requirements of a contract, and the inclusion of a contract number or description, or project number or description, within a certificate of insurance may not be interpreted as doing such. Notwithstanding any requirement, term or condition of any contract or other document with respect to which a certificate of insurance may be issued or may pertain, the insurance afforded by the referenced policy of insurance is subject to all the terms, exclusions and conditions of the policy itself.

(11) A person is entitled to receive notice of cancellation, nonrenewal or any material change or any similar notice concerning a policy of insurance only if the person has such notice rights under the terms of the policy or any endorsement to the policy. The terms and conditions of the notice, including the required timing of the notice, are governed by the policy of insurance or endorsement and may not be altered by a certificate of insurance.

(12) Any certificate of insurance or any other document, record or correspondence prepared, issued or requested in violation of this section shall be null and void and of no force and effect.

(13) Any person ~~who~~ that violates this section shall be subject to an administrative penalty imposed by the director in an amount as provided for in section 41-117, Idaho Code, per violation.

(14) The director shall have the power to examine and investigate the activities of any person that the director believes has been or is engaged in an act or practice prohibited by this section. The director shall have the power to enforce the provisions of this section and impose any authorized penalty or remedy against any person ~~who~~ that violates this section.

(15) The director may, in accordance with section 41-211, Idaho Code, adopt reasonable rules as are necessary or proper to carry out the provisions of this section.

(16) This section shall not apply to any certificate of insurance prepared and/or issued by an insurer pursuant to any federal law, rule or regulation, or any other law, rule or regulation of this state, in which the specific content and form of said certificate is enumerated therein, or a certificate issued to a person or entity that has purchased coverage under a group master policy.

Approved March 20, 2018

CHAPTER 215
(H.B. No. 527)

AN ACT

RELATING TO LABOR; AMENDING CHAPTER 9, TITLE 44, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 44-905, IDAHO CODE, TO PROVIDE DEFINITIONS AND TO PROVIDE THAT NEITHER A FRANCHISEE NOR AN EMPLOYEE OF A FRANCHISEE SHALL BE CONSIDERED AN EMPLOYEE OF A FRANCHISOR EXCEPT UNDER CERTAIN CIRCUMSTANCES.

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

SECTION 1. That Chapter 9, Title 44, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 44-905, Idaho Code, and to read as follows:

44-905. FRANCHISE AGREEMENTS -- EMPLOYMENT STATUS. (1) For purposes of this section, "franchise agreement," "franchisee" and "franchisor" shall have the same meanings as provided in section 29-110, Idaho Code.

(2) Neither a franchisee nor an employee of a franchisee shall be considered an employee of the franchisor for any purpose, unless:

- (a) The franchisee or the employee of a franchisee is specifically described as an employee of the franchisor in the franchise agreement; or
- (b) The franchisor is found or has been found by a court or another tribunal to have exercised a type or degree of control over the franchisee or the franchisee's employee that is not customarily exercised by a franchisor.

Approved March 20, 2018

CHAPTER 216
(H.B. No. 537)

AN ACT

RELATING TO FOOD SAFETY; AMENDING SECTION 22-113, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE REGULATION OF NONRETAIL ACTIVITIES SUBJECT TO THE FOOD AND DRUG ADMINISTRATION'S FOOD SAFETY MODERNIZATION ACT, TO PROVIDE FOR THE TRANSITION OF EXISTING CONTRACTS AND CONTRACTING AUTHORITY AND TO SPECIFY THAT THE IDAHO STATE DEPARTMENT OF AGRICULTURE, IN CONSULTATION AND COOPERATION WITH THE DEPARTMENT OF HEALTH AND WELFARE, SHALL CONDUCT NEGOTIATED RULEMAKING TO PROVIDE FOR IMPLEMENTATION OF CERTAIN REGULATION; AND AMENDING TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 54, TITLE 22, IDAHO CODE, TO PROVIDE A TITLE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE TERMS, TO PROVIDE FOR ADMINISTRATION AND ENFORCEMENT, TO PROVIDE FOR RULEMAKING, TO PROVIDE FOR COOPERATION WITH OTHER AGENCIES AND ENTITIES, TO PROVIDE FOR INSPECTIONS, TO PROVIDE FOR VIOLATIONS AND PENALTIES, TO PROVIDE FOR COORDINATION BETWEEN THE IDAHO STATE DEPARTMENT OF AGRICULTURE AND THE DEPARTMENT OF HEALTH AND WELFARE AND TO PROVIDE FOR PRODUCE THAT IS IN VIOLATION OF SPECIFIED LAW OR RULES.

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

SECTION 1. That Section 22-113, Idaho Code, be, and the same is hereby amended to read as follows:

22-113. UNITED STATES FOOD AND DRUG ADMINISTRATION FOOD SAFETY MODERNIZATION ACT -- REGULATIONS FOR HUMAN FOOD PROCESSING. The Idaho legislature hereby directs that the Idaho state department of agriculture shall be the delegated state authority for regulation of any nonretail activities subject to the United States food and drug administration food safety modernization act, in the event the legislature enacts legislation directing that the state should seek federal authorization of such regulation, provided such nonretail activity is subject to registration under section 415 of the federal food, drug and cosmetic act. Prior to the department of agriculture engaging in the regulation of any activities pursuant to the provisions of this section, the department of agriculture, in consultation and cooperation with the department of health and welfare, shall conduct negotiated rulemaking to provide for the implementation of such regulation contracting agency for inspections in the state of Idaho that are contracted by the United States food and drug administration for the inspection of nonretail activities subject to registration under section 415 of the federal food, drug and cosmetic act. Any existing contracts and contracting authority shall transition to the Idaho state department of agriculture by September 29, 2019. Processors conducting nonretail activities and not subject to registration under section 415 of the federal food, drug and cosmetic act, shall not be subject to regulation by the Idaho state department of agriculture pursuant to the provisions of this section. Prior to the Idaho state department of agriculture engaging in the regulation of any activities pursuant to the provisions of this section, the Idaho state department of agriculture, in consultation and cooperation with the department of health and welfare, shall conduct negotiated rulemaking to provide for the implementation of such regulation.

SECTION 2. That Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 54, Title 22, Idaho Code, and to read as follows:

CHAPTER 54
IDAHO PRODUCE SAFETY

22-5401. TITLE. This chapter shall be known and may be cited as the "Idaho Produce Safety Law."

22-5402. LEGISLATIVE INTENT. The legislative intent of this act is to authorize the Idaho state department of agriculture to administer and enforce this act, the produce safety rule, not to exceed the standards required by federal law. The Idaho state department of agriculture shall create a program capable of fulfilling a thorough and competent preventive food safety system through a collaborative and cooperative effort that will demonstrate movement toward the goal of improved produce safety. Such program shall ensure that fresh fruit and vegetables meet standards to provide the safest food to consumers and improve access to wholesome nutritious fresh produce across the state, the nation and the world.

22-5403. DEFINITIONS. As used in this chapter:

- (1) "Department" means the Idaho state department of agriculture.
- (2) "Director" means the director of the Idaho state department of agriculture or the director's designee.
- (3) "Facility" in this chapter also includes a "mixed-type facility" as defined in the produce safety rule.
- (4) "Farm" has the same meaning as provided in the produce safety rule.
- (5) "Produce safety rule" means the standards for growing, harvesting, packing and holding of produce for human consumption promulgated pursuant to the food and drug administration food, drug and cosmetic act.

22-5404. ADMINISTRATION -- ENFORCEMENT -- RULES AND COOPERATION. (1) The department is authorized to administer and enforce this chapter. The authority granted to the department under this chapter is in addition to, and not in lieu of, any other lawful authority granted to the department under state or federal law to administer and enforce requirements related to food safety. The director is authorized, in conformance with chapter 52, title 67, Idaho Code, to promulgate rules necessary to administer the purpose and provisions of this chapter.

(2) The director shall administer and enforce the produce safety rule with moneys appropriated to the department by the federal government for the purpose of administering and enforcing the produce safety rule. Provided however, if the federal government does not appropriate moneys for this purpose or if the produce safety rule or its authorizing statute is repealed or made void, the director will cease enforcing the produce safety rule, this chapter and the rules promulgated under this chapter. Any exemption made to the requirements of the produce safety rule will also apply to this chapter and the rules promulgated under this chapter.

(3) The director may cooperate with and enter into agreements with governmental agencies of this state, other states, agencies of the federal government, private associations, and regulated persons and entities in order to carry out the purpose and provisions of this chapter.

22-5405. INSPECTIONS. (1) The director, during normal business hours, may enter any farm or facility that grows, harvests, packs or holds produce for human consumption to:

- (a) Inspect that farm or facility to determine whether this chapter and the rules promulgated under this chapter are being violated;

(b) Review and copy the farm or facility's records that are relevant to the enforcement of this chapter; and

(c) Secure and test samples needed to verify compliance with this chapter and the rules promulgated under this chapter. The director shall conduct inspections and sample collections and tests in a reasonable manner.

(2) If the owner or operator of any farm or facility described in subsection (1) of this section, or the owner or operator's authorized agent, refuses to admit the director to inspect pursuant to subsection (1) of this section, the director may obtain from any state court of competent jurisdiction an administrative warrant directing that owner, operator or agent to submit the premises described in the warrant to inspection.

22-5406. VIOLATIONS -- PENALTIES. (1) (a) It is a violation for any person to:

(i) Fail to comply with any of the provisions of this chapter or any rules promulgated under this chapter; or

(ii) Interfere or attempt to interfere with the director in the performance of his duties under this chapter or rules promulgated under this chapter.

(b) The department may assess a civil penalty against a violator of not more than ten thousand dollars (\$10,000) for each violation or one thousand dollars (\$1,000) for each day of a continuing violation, in addition to reasonable attorney's fees in accordance with section 12-117, Idaho Code.

(2) The department may assess a civil penalty in conjunction with any other department administrative action.

(3) The department may not assess a civil penalty unless the person charged was given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act, chapter 52, title 67, Idaho Code.

(4) If the department is unable to collect such penalty, or if any person fails to pay all or a set portion of the civil penalty as determined by the department, it may recover such amount by action in the appropriate district court. In addition to the assessed penalty, the department shall be entitled to recover, in accordance with section 12-117, Idaho Code, reasonable attorney's fees and costs incurred in such action or on appeal from such action.

(5) Any person against whom the department has assessed a civil penalty under the provisions of this section may, within thirty (30) days of the final action by the department, appeal the assessment to the district court of the county in which the violation is alleged by the department to have occurred.

(6) All civil penalties collected pursuant to this section shall be remitted to the produce safety account of the department.

22-5407. COORDINATION WITH DEPARTMENT OF HEALTH AND WELFARE. (1) In the event the department of health and welfare or the Idaho state department of agriculture finds or has probable cause to believe that any produce:

(a) Is adulterated within the meaning of chapter 1, title 37, Idaho Code;

(b) Is so misbranded as to be dangerous or fraudulent within the meaning of chapter 1, title 37, Idaho Code;

(c) Is unsound;

(d) Contains any filthy, decomposed or putrid substance;

(e) May be poisonous or deleterious to health or otherwise unsafe; or

(f) Is offered or exposed for sale or held in possession with intent to distribute or sell, or is intended for distribution or sale in violation of any provision of chapter 1, title 37, Idaho Code, or the provisions of this chapter.

(2) In the event the Idaho state department of agriculture finds that produce is found to be in violation of this chapter or rules promulgated under this chapter, the department may issue and enforce a stop sale, use or removal order to the distributor, owner or custodian of the produce and hold the produce, or order it held, at a designated place until the law has been complied with and the produce is released in writing by the department, or the violation has been otherwise legally disposed of by written authority. Any person adversely affected by the department's determination may seek remedies as prescribed under the provisions of chapter 52, title 67, Idaho Code.

Approved March 20, 2018

CHAPTER 217
(H.B. No. 538)

AN ACT

RELATING TO THE IDAHO WOLF DEPREDATION CONTROL BOARD; AMENDING SECTION 22-5307, IDAHO CODE, TO REVISE A SUNSET PROVISION; AMENDING SECTION 25-131, IDAHO CODE, TO REVISE AN EFFECTIVE DATE PROVISION; AMENDING SECTION 25-1145, IDAHO CODE, TO REVISE AN EFFECTIVE DATE PROVISION; AND AMENDING SECTION 36-125, IDAHO CODE, TO REVISE AN EFFECTIVE DATE PROVISION.

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

SECTION 1. That Section 22-5307, Idaho Code, be, and the same is hereby amended to read as follows:

22-5307. SUNSET DATE. The provisions of this chapter shall be null, void and of no force and effect on and after June 30, ~~2019~~ 2020.

SECTION 2. That Section 25-131, Idaho Code, be, and the same is hereby amended to read as follows:

25-131. IDAHO SHEEP AND GOAT HEALTH ACCOUNT -- ASSESSMENT -- FIRST PURCHASER TO MAKE REPORT -- PENALTY FOR FAILURE TO MAKE REPORT -- APPROPRIATION. (1) In order for the board to carry out the provisions of this chapter, the board shall assess, levy and collect an assessment established by the board, not to exceed twelve cents (12¢) per pound on all wool, in the grease basis, sold through commercial channels, and from the effective date of this act through June 30, ~~2019~~ 2020, two cents (2¢) of the assessment shall be considered a wolf control assessment pursuant to section 22-5306, Idaho Code. In the event that a sheep, which produces wool subject to this assessment, shall be located outside the state of Idaho during a part of the assessment year, the amount of the assessment shall be reduced on a pro rata basis. Such assessment shall be levied and assessed to the producer at the time of the first sale of wool and shall be deducted by the first purchaser from the price paid to the producer at the time of such first sale. The assessment provided in this section shall not be levied or collected on any casual sale. In addition to the assessment provisions of this section related to wool, the board may by rule establish an assessment on goats that would assess goats on a per head basis and at a rate that is comparable to the assessment on wool.

(2) The assessment provided by this section shall constitute a lien prior to all other liens and encumbrances upon such wool except liens which are declared prior by operation of a statute of this state.

(3) If the first purchaser lives or has his principal office in another state, the producer shall make the reports and pay the assessments to the board as required under this section unless the first purchaser agrees in writing to make such reports and pay such assessments.

(4) The first purchaser shall specify the amounts of assessments withheld in any written statements made to the producer.

(5) The first purchaser shall make reports to the board on forms prescribed by the board, and no first purchaser shall fail to make such reports or falsify any such reports. The assessment deducted and withheld by a first purchaser, as required in subsection (1) of this section, shall be paid to the board on a quarterly calendar year basis, and shall be due and payable within thirty (30) days after the end of the quarter. All moneys collected by the board under the provisions of this chapter shall be paid to the state treasurer. All moneys received from the assessment pursuant to this section shall be deposited in the state treasury by the state treasurer to the credit of a special account in the state operating fund hereby created to be known as the "Idaho sheep and goat health account."

(6) A first purchaser who delays transmittal of reports and payments of assessments beyond the time stated in subsection (5) of this section shall pay five percent (5%) of the amount due for the first month of delay and one percent (1%) of the amount due for each month of delay thereafter. Such moneys shall be deposited in the Idaho sheep and goat health account.

(7) In addition thereto, the said account shall consist of any appropriations made by the legislature for the use of and expenditure by said board. All fees of every kind collected under the provisions of this chapter, or under any rules and regulations made pursuant to the provisions of this chapter, shall be deposited in the state treasury in the manner hereinabove described. The moneys in said special account are hereby appropriated for the use and expenditure of said board carrying out the provisions of this chapter and the rules and regulations made herein and said account is hereby declared to be a continuing account.

(8) All moneys appropriated to the board for the purposes of sheep disease prevention, abatement, suppression, control or eradication shall be expended by the board only for those purposes, in accordance with the duties specified in section 25-128(1), Idaho Code.

(9) All moneys received by the board from that portion of the special assessment which is made to carry on the work for prevention and control of damage caused by predatory animals and other vertebrate pests shall be expended by the board in the respective districts comprising the counties where the assessment was collected less the actual and necessary administrative costs for carrying out the provisions of this chapter. All moneys received by such account for work for prevention and control of damage caused by predatory animals and other vertebrate pests except as herein otherwise provided shall be expended by the board within the district or districts specified by the party or agency providing such funds and any trust fund must be held inviolate for the purposes of the trust.

(10) The right is reserved to the state of Idaho to audit the funds of the board at any time.

SECTION 3. That Section 25-1145, Idaho Code, be, and the same is hereby amended to read as follows:

25-1145. RENEWAL OF BRANDS. (1) On July 1, 2011, and at the end of each recording period of an original application pursuant to section 25-1144, Idaho Code, and at the end of each successive period thereafter on the first day of July, the recording of every brand in the office of the state brand

inspector shall be renewed upon application for such renewal by the owner. The fee of the state brand inspector for filing each such renewal application shall be not more than one hundred twenty-five dollars (\$125), and from the effective date of this act through June 30, 2019 2020, twenty-five dollars (\$25.00) of which shall be considered a wolf control assessment pursuant to section 22-5306, Idaho Code, and it shall be the duty of the state brand inspector to furnish without further or other charge one (1) certified copy of the certificate of such brand to the owner thereof upon his request, and for each additional certified copy the state brand inspector shall be paid a reasonable fee as determined by the state brand board not to exceed one dollar and fifty cents (\$1.50) for the additional certified copy. The fee for recording each renewal shall be paid coincident with the filing of the application therefor.

(2) Each application for the renewal and the record of renewal of each brand shall be made in the same manner as is provided by law for the filing of an original application for the recording of a brand.

(3) If an application for the renewal of any brand shall not be made and the fee therefor paid within the period of six (6) months after the expiration date for such renewal, then such brand may be allotted by the state brand inspector to any other person who shall apply therefor.

SECTION 4. That Section 36-125, Idaho Code, be, and the same is hereby amended to read as follows:

36-125. FIXING ASSESSMENT AND FEES FOR WILDLIFE -- WOLF CONTROL FUND. From the effective date of this act through June 30, 2019 2020, the fish and game commission shall comply with the provisions of section 22-5306, Idaho Code, in providing the wolf depredation control board with direction for use of fish and game funds transferred to the fish and game fund transfer subaccount of the wolf control fund made pursuant to the provisions of section 22-5306, Idaho Code.

Approved March 20, 2018

CHAPTER 218
(H.B. No. 601)

AN ACT

RELATING TO GOOD SAMARITANS; AMENDING SECTION 5-330, IDAHO CODE, TO PROVIDE THAT CERTAIN ACTIONS SHALL BE WITHOUT COMPENSATION AND TO PROVIDE FOR EMERGENCIES, EMERGENCY FIRST AID AND EMERGENCY MEDICAL ATTENTION.

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

SECTION 1. That Section 5-330, Idaho Code, be, and the same is hereby amended to read as follows:

5-330. IMMUNITY OF PERSONS GIVING EMERGENCY FIRST AID FROM DAMAGE CLAIM. That no action shall lie or be maintained for civil damages in any court of this state against any person or persons, or group of persons, who in good faith and without compensation, being at, or stopping at the scene of an accident or emergency, offers and administers emergency first aid or emergency medical attention to any person or persons injured in such accident or emergency unless it can be shown that the person or persons offering or administering emergency first aid or emergency medical attention, is guilty of gross negligence in the care or treatment of said injured person or persons or has treated them in a grossly negligent manner. The immunity described herein shall cease upon delivery of the injured person to either

a generally recognized hospital for treatment of ill or injured persons, or upon assumption of treatment in the office or facility of any person undertaking to treat said injured person or persons, or upon delivery of said injured person or persons into custody of an ambulance attendant.

Approved March 20, 2018

CHAPTER 219
(H.B. No. 647)

AN ACT

RELATING TO SCHOOL DISTRICTS; AMENDING SECTION 33-1271, IDAHO CODE, TO REVISE PROVISIONS REGARDING EVIDENCE ESTABLISHING THAT A LOCAL EDUCATION ORGANIZATION REPRESENTS A MAJORITY OF PROFESSIONAL EMPLOYEES FOR CERTAIN NEGOTIATIONS.

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

SECTION 1. That Section 33-1271, Idaho Code, be, and the same is hereby amended to read as follows:

33-1271. SCHOOL DISTRICTS -- PROFESSIONAL EMPLOYEES -- NEGOTIATION AGREEMENTS. The board of trustees of each school district, including specially chartered districts, or the designated representative(s) of such district, is hereby empowered to and shall, upon its own initiative or upon the request of a local education organization representing a majority of the professional employees, enter into a negotiation agreement with the local education organization or the designated representative(s) of such organization.

(1) The parties to such negotiations shall negotiate in good faith on those matters specified in any such negotiation agreement between the local board of trustees and the local education organization.

(2) A request for negotiations may be initiated by either party to such negotiation agreement.

(3) Upon either party making a request for negotiations, the local education organization, upon board request, shall provide to the district written evidence establishing that the local education organization represents fifty percent (50%) plus one (1) of the professional employees for negotiations. If requested by the board, the local education organization shall establish this representative status on an annual basis, prior to the commencement of negotiations. In order to establish a local education organization's representative status, a local education organization must show that within the last two (2) years, fifty percent (50%) plus one (1) of the professional employees, as defined in section 33-1272, Idaho Code, indicated agreement to be represented by the local education organization for negotiation purposes. Evidence of fifty percent (50%) plus one (1) inconsistent with this provision shall not be counted in the establishment of representative status.

(4) Accurate records or minutes of the proceedings shall be kept and shall be available for public inspection at the office of the affected school district during normal business hours.

(5) Joint ratification of all final offers of settlement shall be made in open meetings. Each party must provide written evidence confirming to the other that majority ratification has occurred.

Approved March 20, 2018

CHAPTER 220
(H.B. No. 578)

AN ACT

RELATING TO THE SALES AND USE TAX; AMENDING SECTION 63-3611, IDAHO CODE, TO REVISE THE DEFINITION OF "RETAILER ENGAGED IN BUSINESS IN THIS STATE."

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

SECTION 1. That Section 63-3611, Idaho Code, be, and the same is hereby amended to read as follows:

63-3611. RETAILER ENGAGED IN BUSINESS IN THIS STATE. "Retailer engaged in business in this state" as used in this chapter means any retailer who:

(1) Engages in recurring solicitation of purchases from residents of this state or otherwise purposefully directs its business activities at residents of this state; and

(2) Has sufficient contact with this state, in accordance with the constitution of the United States, to allow the state to require the seller to collect and remit use tax on sales of tangible personal property or services made to customers in this state.

(3) The term includes any of the following:

(a) Any retailer maintaining, occupying or using, permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business or maintaining a stock of goods.

(b) Any retailer having any representative, agent, salesman, canvasser or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, installing or the taking of orders for any tangible personal property.

(c) Any retailer, with respect to a lease or rental, deriving rentals from a lease or rental of tangible personal property situated in this state.

(d) Any retailer engaging in any activity in connection with servicing or installing tangible personal property in this state.

(e) Any retailer with substantial nexus in this state within the meaning of section 63-3615A, Idaho Code.

(f) Any retailer having a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under the provisions of this section.

(g) (i) Any retailer that has an agreement, directly or indirectly, with one (1) or more persons engaged in business in this state pursuant to this section under which, for a commission or other consideration, the persons refer potential purchasers to the retailer directly, whether by a link on an internet website, written or oral presentation, or otherwise; and

(ii) The cumulative gross receipts from sales by the retailer to purchasers who are referred by all retailers engaged in business in this state pursuant to this section with such an agreement are greater than ten thousand dollars (\$10,000) during the immediately preceding twelve (12) months. For purposes of this paragraph, gross receipts means receipts from sales to customers located in this state who were referred to the retailer by persons in this state with such an agreement with the retailer.

(iii) For purposes of this paragraph, a retailer may rebut the presumption that it is soliciting sales in Idaho through persons

in this state with whom it has an agreement as described in paragraph (g) (i) of this subsection. For purposes of administering such rebuttal, the state tax commission will deem the presumption rebutted if the retailer is able to establish that no persons as described in paragraph (g) (i) of this subsection engaged in any solicitation in this state on behalf of the retailer that would satisfy the nexus requirement of the United States constitution during the twelve (12) month period in question. The state tax commission may promulgate rules to administer the provisions of this subsection.

Approved March 21, 2018

CHAPTER 221
(H.B. No. 447)

AN ACT

RELATING TO CIVIL FORFEITURES; AMENDING SECTION 37-2744, IDAHO CODE, TO REVISE PROVISIONS REGARDING CERTAIN PROPERTY SUBJECT TO FORFEITURE, TO PROVIDE THAT CERTAIN PROPERTY MAY BE SUBJECT TO REPLEVIN UPON A FINDING BY A COURT, TO PROVIDE FOR A COURT DETERMINATION OF PROPORTIONALITY WITH REGARD TO FORFEITURE, TO REMOVE A PROVISION REGARDING PAYMENT OF CERTAIN COSTS, TO PROVIDE FOR THE DISPOSITION OF FORFEITED PROPERTY, TO PROVIDE REPORTING REQUIREMENTS, TO PROVIDE FOR THE SUBMISSION AND RETENTION OF INFORMATION AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 37-2744, Idaho Code, be, and the same is hereby amended to read as follows:

37-2744. FORFEITURES. (a) The following are subject to forfeiture:

(1) All controlled substances ~~which~~ that have been manufactured, distributed, dispensed, acquired, possessed or held in violation of this act or with respect to which there has been any act by any person in violation of this act;

(2) All raw materials, products and equipment of any kind ~~which~~ that are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substances or counterfeit substances in violation of this act;

(3) All property ~~which~~ that is used, or intended for use, as a container for property ~~described in paragraph (1) or (2) of this section used in the commission of an act prohibited by section 37-2732B, 37-2732(a) or (b), or 37-2737A, Idaho Code;~~

(4) All conveyances, including aircraft, vehicles, or vessels, ~~which~~ that are used, or intended for use, to transport, or in any manner to facilitate the transportation, delivery, receipt, ~~possession or concealment, for the purpose of distribution or receipt~~ manufacture of property described in paragraph (1) or (2) of this substances as prohibited by section 37-2732B, 37-2732(a) or (b), or 37-2737A, Idaho Code, but:

(A) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this act;

(B) No conveyance is subject to forfeiture under this section if the owner establishes that he could not have known in the exer-

cise of reasonable diligence that the conveyance was being used, had been used, was intended to be used or had been intended to be used in any manner described in subsection (a) (4) of this section;
 (C) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the security interest was created without any knowledge or reason to believe that the conveyance was being used, had been used, was intended to be used, or had been intended to be used for the purpose alleged.

(5) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which that are used, or intended for use, in violation of this act.

(6) (A) All moneys, currency, negotiable instruments, securities or other items easily liquidated for cash, such as, but not limited to, jewelry, stocks and bonds, or other property described in paragraphs (2) and (3) hereof, of this subsection that is found in close proximity to property described in paragraph (1), (2), (3), (5), (7) or (8) of this subsection ~~(a) of this section or which and that has been used or is intended for use in connection with the illegal manufacture, distribution, dispensing or possession of property described in paragraph (1), (2), (3), (5), (7) or (8) of this subsection (a) of this section;~~

(B) Items described in paragraph (6) (A) of this subsection or other things of value furnished or intended to be furnished by any person in exchange for a contraband controlled substance in violation of this chapter, all proceeds, including items of property traceable to such an exchange, and all moneys or other things of value used or intended to be used to facilitate any violation of this chapter, except that no property shall be forfeited under this paragraph to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

(7) All drug paraphernalia as defined by section 37-2701, Idaho Code.

(8) All simulated controlled substances, which are used or intended for use in violation of this chapter.

(9) All weapons, or firearms, which are used in any manner to facilitate a violation of the provisions of this chapter.

(b) Property subject to forfeiture under this chapter may be seized by the director, or any peace officer of this state, upon process issued by any district court, or magistrate's division thereof, having jurisdiction over the property. Seizure without process may be made if:

(1) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal racketeering or civil forfeiture proceeding based upon a violation of this chapter;

(3) Probable cause exists to believe that the property is directly or indirectly dangerous to health or safety; or

(4) Probable cause exists to believe that the property was used or is intended to be used in violation of this chapter.

Mere presence or possession of United States currency, without other indicia of criminal activity, is insufficient cause for seizure.

(c) In the event of seizure pursuant to subsection (b) of this section, proceedings under subsection (d) of this section shall be instituted promptly.

(1) When property is seized under this section, the director or the peace officer who seized the property may:

(A) Place the property under seal;

(B) Remove the property to a place designated by it; or

(C) Take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(2) The peace officer who seized the property shall within five (5) days notify the director of such seizure.

(3) In the event of seizure pursuant to subsection (b) of this section, proceedings under subsection (d) of this section shall be instituted within thirty (30) days by the director or appropriate prosecuting attorney.

(d) Property taken or detained under this section ~~shall not~~ may be subject to replevin, ~~but is deemed to be in the custody of the director, or appropriate prosecuting attorney, subject only to the orders and decrees of~~ during the pendency of the forfeiture proceedings upon a hearing and finding by the district court, or magistrate's division thereof, having jurisdiction over the forfeiture proceedings, that the property is: (i) reasonably necessary for the owner's employment or personal use, that the property will not be disposed of or used for criminal activity, and that reasonable security has been posted; or (ii) that the seizure violated the provisions of this section. The right of replevin shall terminate upon an order of forfeiture as set forth in this section. Property that is being held that has evidentiary value in the underlying criminal case shall not be subject to replevin. Forfeiture proceedings shall be civil actions against the property subject to forfeiture and the standard of proof shall be preponderance of the evidence.

(1) All property described in paragraphs (1), (7) and (8) of subsection (a) of this section shall be deemed contraband and shall be summarily forfeited to the state. Controlled substances ~~which that~~ are seized or come into possession of the state, the owners of which are unknown, shall be deemed contraband and shall be summarily forfeited to the state.

(2) When property described in paragraphs (2), (3), (4), (5), and (6) or (9) of subsection (a) of this section is seized pursuant to this section, forfeiture proceedings shall be filed in the office of the clerk of the district court for the county wherein such property is seized. The procedure governing such proceedings shall be the same as that prescribed for civil proceedings by the Idaho rules of civil procedure. The court shall ~~order the property forfeited to the director, or appropriate prosecuting attorney, if he determines that~~ determine whether such property was used, or intended for use, in violation of this chapter, or, in the case of items described in paragraph (6)(A) of subsection (a), was found in close proximity to property described in paragraph (1), (2), (3), (5), (7) or (8) of subsection (a) of this section. The court shall also determine whether a property forfeiture is proportionate to the crime alleged, charged or proven. Factors to be considered by the court in making such a determination shall include, but are not limited to, the nature and severity of the crime, the fair market value of the property, the intangible or subjective value of the property, the hardship to the defendant, the effect of forfeiture on the defendant's family or financial circumstances, and any other sanctions or penalties that have been imposed upon the defendant. The court may tailor the forfeiture of property according to its determination of proportionality as justice requires.

(3) When conveyances, including aircraft, vehicles, or vessels are seized pursuant to this section a complaint instituting forfeiture proceedings shall be filed in the office of the clerk of the district court for the county wherein such conveyance is seized.

(A) Notice of forfeiture proceedings shall be given to each owner or party in interest who has a right, title, or interest which in the case of a conveyance shall be determined by the record in the Idaho transportation department or a similar department of

another state if the records are maintained in that state, by serving a copy of the complaint and summons according to one (1) of the following methods:

(I) Upon each owner or party in interest by mailing a copy of the complaint and summons by certified mail to the address as given upon the records of the appropriate department.

(II) Upon each owner or party in interest whose name and address is known, by mailing a copy of the notice by registered mail to the last known address.

(B) Within twenty (20) days after the mailing or publication of the notice, the owner of the conveyance or claimant may file a verified answer and claim to the property described in the complaint instituting forfeiture proceedings.

(C) If at the end of twenty (20) days after the notice has been mailed there is no verified answer on file, the court shall hear evidence upon the fact of the unlawful use, or intent to use, and shall order the property forfeited to the director, or appropriate prosecuting attorney, if such fact is proved.

(D) If a verified answer is filed, the forfeiture proceeding shall be set for hearing before the court without a jury on a day not less than thirty (30) days therefrom; and the proceeding shall have priority over other civil cases.

(I) At the hearing any owner who has a verified answer on file may show by competent evidence that the conveyance was not used or intended to be used in any manner described in subsection (a) (4) of this section.

(II) At the hearing any owner who has a verified answer on file may show by competent evidence that his interest in the conveyance is not subject to forfeiture because he ~~could did~~ did not have known in the exercise of reasonable diligence know that the conveyance was being used, had been used, was intended to be used or had been intended to be used in any manner described in subsection (a) (4) of this section.

(III) If the court finds that the property was not used or was not intended to be used in violation of this act, or is not subject to forfeiture under this act, the court shall order the property released to the owner as his right, title, or interest appears on records in the appropriate department as of the seizure.

(IV) An owner, co-owner or claimant of any right, title, or interest in the conveyance may prove that his right, title, or interest, whether under a lien, mortgage, conditional sales contract or otherwise, was created without any knowledge or reason to believe that the conveyance was being used, had been used, was intended to be used, or had been intended to be used for the purpose alleged;

(i) In the event of such proof, the court shall order the conveyance released to the bona fide or innocent owner, purchaser, lienholder, mortgagee, or conditional sales vendor. ~~The court may order payment of all costs incurred by the state or law enforcement agency as a result of such seizure.~~

(ii) If the amount due to such person is less than the value of the conveyance, the conveyance may be sold at public auction by the director or appropriate prosecuting attorney. The director, or appropriate prosecuting attorney, shall publish a notice of the sale by at least one (1) publication in a newspaper published and circulated in the city, community or locality where

the sale is to take place at least one (1) week prior to sale of the conveyance. The proceeds from such sale shall be distributed as follows in the order indicated:

1. To the bona fide or innocent owner, purchaser, conditional sales vendor, lienholder or mortgagee of the conveyance, if any, up to the value of his interest in the conveyance.
2. The balance, if any, in the following order:
 - A. To the director, or appropriate prosecuting attorney, for all expenditures made or incurred by it in connection with the sale, including expenditure for any necessary repairs, storage, or transportation of the conveyance, and for all expenditures made or incurred by him in connection with the forfeiture proceedings including, but not limited to, expenditures for witnesses' fees, reporters' fees, transcripts, printing, traveling and investigation.
 - B. To the law enforcement agency of this state which seized the conveyance for all expenditures for traveling, investigation, storage and other expenses made or incurred after the seizure and in connection with the forfeiture of any conveyance seized under this act.
 - C. The remainder, if any, to the director for credit to the drug and driving while under the influence enforcement donation fund or to the appropriate prosecuting attorney for credit to the local drug enforcement donation fund, or its equivalent.

(iii) In any case, the director, or appropriate prosecuting attorney, may, within thirty (30) days after judgment, pay the balance due to the bona fide lienholder, mortgagee or conditional sales vendor and thereby purchase the conveyance for use to enforce this act.

(e) When property is forfeited under this section, or is received from a federal enforcement agency, the director, or appropriate prosecuting attorney, may:

- (1) Upon a showing that the property as set forth in this section is suited for and likely to be used for law enforcement activities, the plaintiff or law enforcement agency may, with judicial approval, rRetain it for official use;
- (2) Sell that which is not required to be destroyed by law and which is not harmful to the public.

The director, or appropriate prosecuting attorney, shall publish a notice of the sale by at least one (1) publication in a newspaper published and circulated in the city, community or locality where the sale is to take place at least one (1) week prior to sale of the property. The proceeds from such sale shall be distributed as follows in the order indicated:

- (A) To the director, or prosecuting attorney on behalf of the county or city law enforcement agency, for all expenditures made or incurred in connection with the sale, including expenditure for any necessary repairs, maintenance, storage or transporta-

tion, and for all expenditures made or incurred in connection with the forfeiture proceedings including, but not limited to, expenditures for witnesses' fees, reporters' fees, transcripts, printing, traveling and investigation.

(B) To the law enforcement agency of this state which seized the property for all expenditures for traveling, investigation, storage and other expenses made or incurred after the seizure and in connection with the forfeiture of any property seized under this act.

(C) The remainder, if any, to the director for credit to the drug and driving while under the influence enforcement donation fund or to the appropriate prosecuting attorney for credit to the local agency's drug enforcement donation fund; or

(3) Take custody of the property and remove it for disposition in accordance with law.

(f) (1) The director or any peace officer of this state seizing any of the property described in paragraphs (1) and (2) of subsection (a) of this section shall cause a written inventory to be made and maintain custody of the same until all legal actions have been exhausted unless such property has been placed in lawful custody of a court or state or federal law enforcement agency. After all legal actions have been exhausted with respect to such property, the property shall be surrendered by the court, law enforcement agency, or person having custody of the same to the director to be destroyed pursuant to paragraph (2) of this subsection. The property shall be accompanied with a written inventory on forms furnished by the director.

(2) All property described in paragraphs (1) and (2) of subsection (a) ~~which of this section~~ that is seized or surrendered under the provisions of this act may be destroyed after all legal actions have been exhausted. The destruction shall be done under the supervision of the Idaho state police by a representative of the office of the director and a representative of the state board of pharmacy. An official record listing the property destroyed and the location of destruction shall be kept on file at the office of the director. Except, however, that the director of the Idaho state police or his designee may authorize the destruction of drug or nondrug evidence, or store those items at government expense when, in the opinion of the director or his designee, it is not reasonable to remove or transport such items from the location of the seizure for destruction. In such case, a representative sample will be removed and preserved for evidentiary purposes and, when practicable, destroyed as otherwise is in accordance with this chapter. On-site destruction of such items shall be witnessed by at least two (2) persons, one (1) of whom shall be the director or his designee who shall make a record of the destruction.

(g) Species of plants from which controlled substances in schedules I and II may be derived ~~which that~~ have been planted or cultivated in violation of this act, or of which the owners or cultivators are unknown, or ~~which that~~ are wild growths, may be seized and summarily forfeited to the state.

(h) The failure, upon demand by the director, or his duly authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

(i) The director shall have the authority to enter upon any land or into any dwelling pursuant to a search warrant, to cut, harvest, carry off or destroy such plants described in subsection (g) of this section.

(j) On or before March 31, 2019, and by March 31 of each year thereafter, each state or local law enforcement agency in this state that has seized or

forfeited property pursuant to this section shall retain the following information from the previous calendar year:

- (1) Name of the law enforcement agency that seized the property;
- (2) Date of seizure;
- (3) Type and description of property seized, including make, model, year, and serial number, if applicable;
- (4) Crime, if any, for which the suspect has been charged, including whether such crime is a violation of state or federal law;
- (5) Criminal case number, if any;
- (6) Outcome, if any, of suspect's case;
- (7) If forfeiture was not processed under state law, the reason for the federal transfer, if known;
- (8) Forfeiture case number;
- (9) Date of forfeiture decision;
- (10) Whether there was a forfeiture settlement agreement;
- (11) Date and outcome of property disposition as described by one (1) of the following: returned to owner, partially returned to owner, sold, destroyed, or retained by law enforcement; and
- (12) Value of the property forfeited based on the value realized, if sold, or a reasonable good faith estimate of the value, if possible.

Local law enforcement agencies shall submit the information required by this subsection to the county prosecutor for its jurisdiction on a form as promulgated in rule by the Idaho state police, and such prosecutor shall retain the form for a period of seven (7) years.

Approved March 21, 2018

CHAPTER 222
(S.B. No. 1313)

AN ACT

RELATING TO SELF-DEFENSE; AMENDING SECTION 18-4009, IDAHO CODE, TO REVISE PROVISIONS REGARDING JUSTIFIABLE HOMICIDE, TO PROVIDE A CERTAIN PRESUMPTION, TO DEFINE TERMS AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 18-4010, IDAHO CODE, RELATING TO FEAR NOT SUFFICIENT JUSTIFICATION; AMENDING CHAPTER 2, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-201A, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT; AMENDING SECTION 19-202, IDAHO CODE, TO REVISE TERMINOLOGY, TO PROVIDE FOR WHAT DEGREE AND EXTENT OF FORCE MAY BE USED AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 19-202A, IDAHO CODE, TO PROVIDE FOR THE DEFENSE OF SELF, OTHERS AND CERTAIN PLACES, TO PROVIDE CERTAIN PRESUMPTIONS AND TO PROVIDE THAT A CERTAIN BURDEN SHALL BE ON THE PROSECUTION IN CERTAIN INSTANCES.

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

SECTION 1. That Section 18-4009, Idaho Code, be, and the same is hereby amended to read as follows:

18-4009. JUSTIFIABLE HOMICIDE BY ANY PERSON. (1) Homicide is also justifiable when committed by any person in either any of the following cases:

- 1-(a) When resisting any attempt to murder any person, or to commit a felony, or to do some great bodily injury upon any person; ~~or~~
- 2-(b) When committed in defense of habitation, a place of business or employment, occupied vehicle, property or person, against one who manifestly intends or endeavors, by violence or surprise, to commit a felony, or against one who manifestly intends and endeavors, in a violent, riotous or tumultuous manner, to enter the habitation, place

of business or employment or occupied vehicle of another for the purpose of offering violence to any person therein; or,

3-(c) When committed in the lawful defense of such person, or of a wife or husband, parent, child, master, mistress or servant of such person, when there is reasonable ground to apprehend a design to commit a felony or to do some great bodily injury, and imminent danger of such design being accomplished; but such person, or the person in whose behalf the defense was made, if he was the assailant or engaged in mortal combat, must really and in good faith have endeavored to decline any further struggle before the homicide was committed; or,

4-(d) When necessarily committed in attempting, by lawful ways and means, to apprehend any person for any felony committed, or in lawfully suppressing any riot, or in lawfully keeping and preserving the peace.

(2) For purposes of subsection (1) (b) of this section, a person who unlawfully and by force or by stealth enters or attempts to enter a habitation, place of business or employment or occupied vehicle is presumed to be doing so with the intent to commit a felony.

(3) For purposes of this section:

(a) "Habitation" means any building, inhabitable structure or conveyance of any kind, whether the building, inhabitable structure or conveyance is temporary or permanent, mobile or immobile, including a tent, and is designed to be occupied by people lodging therein at night, and includes a dwelling in which a person resides either temporarily or permanently or is visiting as an invited guest, and includes the curtilage of any such dwelling.

(b) "Place of business or employment" means a commercial enterprise or establishment owned by a person as all or part of the person's livelihood or is under the owner's control or under control of an employee or agent of the owner with responsibility for protecting persons and property and shall include the interior and exterior premises of the place of business or employment.

(c) "Vehicle" means any motorized vehicle that is self-propelled and designed for use on public highways to transport people or property.

SECTION 2. That Section 18-4010, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Chapter 2, Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 19-201A, Idaho Code, and to read as follows:

19-201A. LEGISLATIVE INTENT -- CASTLE DOCTRINE AND STAND YOUR GROUND. It is the intent of the legislature to incorporate provisions of the castle doctrine and stand your ground provided in Idaho case law and jury instructions into certain sections of this chapter and in section 18-4009, Idaho Code.

SECTION 4. That Section 19-202, Idaho Code, be, and the same is hereby amended to read as follows:

19-202. RESISTANCE BY THREATENED PARTY. (1) Resistance sufficient to prevent the offense may be made by the party person about to be injured:

1-(a) To prevent an offense against his person, or his family, or some member thereof; or

2-(b) To prevent an illegal attempt by force to take or injure property in his lawful possession.

(2) A person acting pursuant to this section may use such degree and extent of force as would appear to be reasonably necessary to prevent the threatened injury. Reasonableness is to be judged from the viewpoint of a

reasonable person placed in the same position and seeing and knowing what the person then saw and knew without the benefit of hindsight.

SECTION 5. That Section 19-202A, Idaho Code, be, and the same is hereby amended to read as follows:

~~19-202A. LEGAL JEOPARDY IN CASES OF SELF-DEFENSE AND DEFENSE OF OTHER THREATENED PARTIES~~ DEFENSE OF SELF, OTHERS AND CERTAIN PLACES. (1) No person in this state shall be placed in legal jeopardy of any kind whatsoever for protecting himself or his family by reasonable means necessary, or when coming to the aid of another whom he reasonably believes to be in imminent danger of or the victim of aggravated assault, robbery, rape, murder or other heinous crime.

(2) The defense of self or of another does not require a person to wait until he or she ascertains whether the danger is apparent or real. A person confronted with such danger has a clear right to act upon appearances such as would influence the action of a reasonable person.

(3) In the exercise of the right of self-defense or defense of another, a person need not retreat from any place that person has a right to be. A person may stand his ground and defend himself or another person by the use of all force and means which would appear to be necessary to a reasonable person in a similar situation and with similar knowledge without the benefit of hindsight. The provisions of this subsection shall not apply to a person incarcerated in jail or prison facilities when interacting with jail or prison staff who are acting in their official capacities.

(4) In any prosecution for the unlawful use of force, including deadly force, or the attempted or threatened use of force contrary to title 18, Idaho Code, the burden is on the prosecution to prove beyond a reasonable doubt that the use of force, attempted use of force or threat to use force was not justifiable.

(5) A person using force or deadly force in defense of a habitation, place of business or employment or occupied vehicle as defined in section 18-4009(3), Idaho Code, is presumed to have acted reasonably and had a reasonable fear of imminent peril of death or serious bodily injury if the force is used against a person whose entry or attempted entry therein is unlawful and is made or attempted by use of force, or in a violent and tumultuous manner, or surreptitiously or by stealth, or for the purpose of committing a felony.

Law without signature.

CHAPTER 223
(H.B. No. 611)

AN ACT

RELATING TO TRANSPARENT AND ETHICAL GOVERNMENT; AMENDING SECTION 74-204, IDAHO CODE, TO REVISE PROVISIONS REGARDING OPEN MEETING NOTICES AND AGENDAS.

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

SECTION 1. That Section 74-204, Idaho Code, be, and the same is hereby amended to read as follows:

74-204. NOTICE OF MEETINGS -- AGENDAS. (1) Regular meetings. No less than a five (5) calendar day meeting notice and a forty-eight (48) hour agenda notice shall be given unless otherwise provided by statute. Provided however, that any public agency that holds meetings at regular intervals

of at least once per calendar month scheduled in advance over the course of the year may satisfy this meeting notice by giving meeting notices at least once each year of its regular meeting schedule. The notice requirement for meetings and agendas shall be satisfied by posting such notices and agendas in a prominent place at the principal office of the public agency, or, if no such office exists, at the building where the meeting is to be held. The notice for meetings and agendas shall also be posted electronically if the entity maintains an online presence through a website or a social media platform.

(2) Special meetings. No special meeting shall be held without at least a twenty-four (24) hour meeting and agenda notice, unless an emergency exists. An emergency is a situation involving injury or damage to persons or property, or immediate financial loss, or the likelihood of such injury, damage or loss, when the notice requirements of this section would make such notice impracticable, or increase the likelihood or severity of such injury, damage or loss, and the reason for the emergency is stated at the outset of the meeting. The notice required under this section shall include at a minimum the meeting date, time, place and name of the public agency calling for the meeting. The secretary or other designee of each public agency shall maintain a list of the news media requesting notification of meetings and shall make a good faith effort to provide advance notification to them of the time and place of each meeting.

(3) Executive sessions. If only an executive session only will be held, a twenty-four (24) hour meeting and agenda notice shall be given according to the notice provisions stated in subsection (2) of this section and shall state the reason and the specific provision of law authorizing the executive session.

(4) An agenda shall be required for each meeting. The agenda shall be posted in the same manner as the notice of the meeting. An agenda may be amended, provided that a good faith effort is made to include, in the original agenda notice, all items known to be probable items of discussion. An agenda item that requires a vote shall be identified on the agenda as an "action item" to provide notice that action may be taken on that item. Identifying an item as an action item on the agenda does not require a vote to be taken on that item.

(a) If an amendment to an agenda is made after an agenda has been posted but forty-eight (48) hours or more prior to the start of a regular meeting, or twenty-four (24) hours or more prior to the start of a special meeting, then the agenda is amended upon the posting of the amended agenda.

(b) If an amendment to an agenda is proposed after an agenda has been posted and less than forty-eight (48) hours prior to a regular meeting or less than twenty-four (24) hours prior to a special meeting but prior to the start of the meeting, the proposed amended agenda shall be posted but shall not become effective until a motion is made at the meeting and the governing body votes to amend the agenda.

(c) An agenda may be amended after the start of a meeting upon a motion that states the reason for the amendment and states the good faith reason the agenda item was not included in the original agenda posting. Final action may not be taken on an agenda item added after the start of a meeting unless an emergency is declared necessitating action at that meeting. The declaration and justification shall be reflected in the minutes.

CHAPTER 224
(H.B. No. 526)

AN ACT

RELATING TO AGREEMENTS BETWEEN SUPPLIERS AND DEALERS OF FARM EQUIPMENT; AMENDING SECTION 28-24-103, IDAHO CODE, TO REVISE CERTAIN SUPPLIER VIOLATION PROVISIONS, TO PROVIDE THAT THE FACT A DEALER AGREEMENT ALLOWS AN EVENT, ACT OR OMISSION DOES NOT CONTROL WHETHER SUCH EVENT, ACT OR OMISSION RESULTED IN A SUBSTANTIAL CHANGE IN THE DEALER'S COMPETITIVE CIRCUMSTANCES, TO CLARIFY THE APPLICABILITY OF SPECIFIED LAW AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 28-24-104, IDAHO CODE, TO PROVIDE THAT A SUPPLIER SHALL PROVIDE WRITTEN NOTICE TO AN EQUIPMENT DEALER OF ANY SUBSTANTIAL CHANGE IN THE DEALER'S COMPETITIVE CIRCUMSTANCES, TO CLARIFY LANGUAGE, TO PROVIDE FOR CONTENT OF THE NOTICE, TO DEFINE A TERM AND TO MAKE TECHNICAL CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE AND PROVIDING APPLICABILITY.

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

SECTION 1. That Section 28-24-103, Idaho Code, be, and the same is hereby amended to read as follows:

28-24-103. DEALER AGREEMENTS -- UNLAWFUL ACTS AND PRACTICES. It shall be a violation of the provisions of this chapter for a supplier to:

(1) Require or attempt to require any equipment dealer to order or accept delivery of any equipment or parts or any equipment with special features or accessories not included in the base list price of such equipment as publicly advertised by the supplier which the equipment dealer has not voluntarily ordered;

(2) Require or attempt to require any equipment dealer to enter into any agreement, whether written or oral, supplementing or amending an existing dealer agreement with such supplier unless such amendment or supplementary agreement is imposed on other similarly situated dealers in the state;

(3) Refuse to deliver in reasonable quantities and within a reasonable time after receipt of the equipment dealer's order, to any equipment dealer having a dealer agreement for the retail sale of new equipment sold or distributed by such supplier, equipment covered by such dealer agreement specifically advertised or represented by such supplier to be available for immediate delivery. The failure to deliver any such equipment shall not be considered a violation of the provisions of this chapter when deliveries are based on prior retail sales ordering histories, the priority given to the sequence in which the orders are received or manufacturing schedules or if such failure is due to prudent and reasonable restriction on extension of credit by the supplier to the equipment dealer, an act of God, work stoppage or delay due to a strike or labor difficulty, a bona fide shortage of materials, freight embargo or other cause over which the supplier has no control;

(4) Terminate, cancel or fail to renew the dealer agreement of any equipment dealer or substantially change the dealer's competitive circumstances of the dealer agreement, attempt to terminate or cancel, or threaten not to renew the dealer agreement or attempt or threaten to substantially change the dealer's competitive circumstances of the ~~dealer agreement~~ without good cause. For purposes of this chapter, the fact that a dealer agreement allows an event, act or omission does not control whether such event, act or omission resulted in a substantial change in the dealer's competitive circumstances. Nothing in this paragraph subsection shall be interpreted to apply to a discontinuation of or change in the product line of an equipment dealer a supplier;

(5) Condition the renewal, continuation or extension of a dealer agreement on the equipment dealer's substantial renovation of the equipment dealer's place of business or on the construction, purchase, acquisition or rental of a new place of business by the equipment dealer, unless:

(a) The supplier has advised the equipment dealer in writing of its demand for such renovation, construction, purchase, acquisition or rental within a reasonable time prior to the effective date of the proposed date of renewal or extension, but in no case less than one (1) year; and

(b) The supplier demonstrates the need for such change in the place of business and the reasonableness of the demand with respect to marketing and servicing the supplier's products and any significant economic conditions existing at the time in the equipment dealer's trade area, and the equipment dealer does not make a good faith effort to complete such construction or renovation plans within one (1) year;

(6) Discriminate in the prices charged for equipment of like grade and quality sold by the supplier to similarly situated dealers in this state where the effect of such discrimination may be to substantially lessen competition or tend to create a monopoly in a line of commerce. The provisions of this subsection do not prevent the use of differentials which make only due allowance for differences in the cost of manufacture, sale or delivery of equipment resulting from the differing methods or quantities in which such equipment is sold or delivered; provided that nothing shall prevent a supplier from offering a lower price in order to meet an equally low price of a competitor, or the services or facilities furnished by a competitor;

(7) Unreasonably withhold consent for an equipment dealer to change the capital structure of the equipment dealership or the means by which it is financed, provided that the equipment dealer meets the reasonable capital requirements of the supplier;

(8) Prevent, by contract or otherwise, any equipment dealer or any officer, member, partner or stockholder of an equipment dealership from selling, assigning, or transferring any interest or portion thereof held by any of them in the equipment dealership to any other person or party; provided, however, that no equipment dealer, officer, partner, member or stockholder shall have the right to sell, transfer, or assign the equipment dealership or the power of management or control thereof without the written consent of the supplier, except that such consent shall not be unreasonably withheld if the buyer, transferee, or assignee meets the reasonable financial, business experience and character standards of the supplier. Should a supplier determine that the designated transferee is not acceptable, the supplier shall provide the equipment dealer with written notice of the supplier's objections and specific reasons for withholding its consent within thirty (30) calendar days of receipt of notice from the equipment dealer;

(9) Require an equipment dealer to assent to a release, assignment, novation, waiver or estoppel which would relieve any person from liability imposed by this chapter;

(10) (a) Unreasonably withhold consent, in the event of the death of the equipment dealer or the principal owner of the equipment dealership, to the transfer of the equipment dealer's or the principal owner's interest in the equipment dealership to another individual, if the individual meets the reasonable financial, business experience and character standards of the supplier. A supplier shall have sixty (60) days to consider a request to make a transfer to an individual. If, within that period, the supplier determines that the individual does not meet the reasonable financial, business experience and character standards of the supplier, it shall provide the dealership, heirs to the dealership, or the estate of the dealer with written notice of its objection and the specific reasons for withholding its consent. If the individual reasonably satisfies the supplier's objections within sixty (60) days af-

ter notice thereof, the supplier shall approve the transfer. Nothing in this paragraph shall entitle a qualified individual to continue to operate the dealership without the consent of the supplier.;

(b) Notwithstanding the provisions of paragraph (a) of this subsection, in the event that a supplier and equipment dealer have duly executed an agreement concerning succession rights prior to the equipment dealer's death, and if such agreement has not been revoked, such agreement shall be observed.;

(11) Cause the equipment dealer to refrain from participation in the management, investment, acquisition or sale of any other related product or product line of equipment, parts or accessories, from the same or separate locations;

(12) Fail to compensate a dealer for preparation and delivery of equipment that the supplier sells or leases for use within this state and that the dealer prepares for delivery and delivers.

SECTION 2. That Section 28-24-104, Idaho Code, be, and the same is hereby amended to read as follows:

28-24-104. TERMINATION OF DEALER AGREEMENT OR CHANGE OF EQUIPMENT DEALER'S COMPETITIVE CIRCUMSTANCES -- NOTICE -- GOOD CAUSE. (1) A supplier shall provide written notice to the equipment dealer of any proposed termination or nonrenewal of a dealer agreement or substantial change in the dealer's competitive circumstances of a dealer agreement. The notice shall state the reason(s) constituting good cause for the action proposed to be taken. Except where good cause is alleged under the provisions of paragraphs (a) through (e) of subsection (2) of this section, such notice shall be provided to the equipment dealer not less than ninety (90) days before the proposed action is to become effective. Except where good cause is alleged under paragraphs (a) through (d) of subsection (2) of this section, the equipment dealer shall be given ninety (90) days within which to cure any claimed deficiency, and the notice shall advise the dealer of his right to cure. If the claimed deficiency is rectified within ninety (90) days, the notice shall be void and the proposed action shall not become effective. Notwithstanding the equipment dealer's failure to cure the deficiency or deficiencies claimed, where a ninety (90) day notice is required to be given by the supplier, the contractual term of the dealer agreement shall not expire, nor shall the dealer agreement be otherwise terminated or canceled, nor shall the equipment dealer's competitive circumstances be substantially changed prior to the expiration of at least ninety (90) days following such notice without the written consent of the equipment dealer.

(2) As used in this chapter, "good cause" shall exist, but not be limited to the following circumstances when the equipment dealer has:

(a) Transferred a controlling ownership interest in the equipment dealership without the supplier's consent;

(b) Made a material misrepresentation to the supplier;

(c) Filed a voluntary petition in bankruptcy or has had an involuntary petition in bankruptcy filed against the equipment dealer which has not been discharged within ninety (90) days after the filing; is in default under the provisions of a security agreement in effect with the supplier; or is insolvent or in receivership;

(d) Been convicted of a crime, punishable for a term of imprisonment for one (1) year or more;

(e) Failed to operate in the normal course of business for ten (10) consecutive business days or has terminated said business;

(f) Relocated the equipment dealer's place of business without the supplier's consent;

(g) Inadequately represented the supplier over a one (1) year period of time or length of time or a time mutually agreed upon between the supplier and dealer to reflect the ongoing market conditions;

(h) Consistently failed to meet building and housekeeping requirements, or has failed to provide adequate sales, service or parts personnel commensurate with the dealer agreement;

(i) Failed to comply with the applicable licensing laws pertaining to the products and services being represented for and on the supplier's behalf;

(j) Materially failed to comply with the terms of the dealer agreement.

(3) Notwithstanding the provisions of subsection (2) of this section, before the termination or nonrenewal of a dealer agreement or substantially changing the dealer's competitive circumstances in each case, based upon a supplier's claim that the dealer has failed to achieve market penetration at levels consistent with similarly situated dealerships in the state, the supplier shall provide written notice of its intention at least one (1) year in advance.

(a) After issuance of such a notice, the supplier shall provide fair and reasonable efforts to work with the dealer to assist the dealer in gaining the required market penetration including, but not limited to, making available to the dealer an adequate inventory of new equipment and parts, and not withhold programs available to all dealers.

(b) Upon the end of the one (1) year period established in this subsection ~~(3)~~, the supplier may terminate or elect not to renew the dealer agreement or substantially change the dealer's competitive circumstances only upon written notice specifying the reasons for determining that the dealer failed to meet reasonable market penetration. The notice must specify that termination or nonrenewal of the dealer agreement or the substantial change in the dealer's competitive circumstances is effective one hundred eighty (180) days from the date of the notice and that either party may petition the court.

(c) A supplier bears the burden of proving that a retailer's area of responsibility or trade area does not afford sufficient sales potential to reasonably support the retailer. The supplier's proof must be in writing.

(4) "Change in competitive circumstances" for purposes of this chapter means an event, act or omission that has a material detrimental effect on a retailer's ability to compete with another retailer that sells the same brand of farm implements.

SECTION 3. This act shall be in full force and effect on and after July 1, 2018, and shall apply to dealer agreements that are executed or renewed on or after the effective date of this act.

Law without signature.