

IN THE SENATE

SENATE BILL NO. 1330

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO ARCHAIC STATUTORY LANGUAGE; AMENDING SECTION 5-334, IDAHO
2 CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 9-205, IDAHO CODE, TO
3 REVISE TERMINOLOGY; AMENDING SECTION 9-340C, IDAHO CODE, TO REVISE
4 TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION
5 10-1204, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 15-5-401,
6 IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION;
7 AMENDING SECTION 15-5-407, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING
8 SECTION 18-6101, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION
9 19-2515A, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 20-225,
10 IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION;
11 AMENDING SECTION 20-508, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING
12 SECTION 32-106, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION
13 33-124, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 33-403A,
14 IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS;
15 AMENDING SECTION 33-1002, IDAHO CODE, TO REVISE TERMINOLOGY AND TO
16 MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-1007, IDAHO CODE, TO
17 REVISE TERMINOLOGY; AMENDING SECTION 33-1404, IDAHO CODE, TO REVISE
18 TERMINOLOGY AND TO PROVIDE A CORRECT CITATION; AMENDING SECTION
19 33-2001, IDAHO CODE, TO ALPHABETIZE TERMS, TO REVISE TERMINOLOGY AND
20 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-4407, IDAHO CODE,
21 TO REVISE TERMINOLOGY; AMENDING SECTION 33-4604, IDAHO CODE, TO REVISE
22 A CITATION, TO DELETE REFERENCE TO AN ACT AND TO REVISE TERMINOLOGY;
23 AMENDING SECTION 34-1108, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING
24 SECTION 34-2427, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION
25 38-1601, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-1202,
26 IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION;
27 AMENDING SECTION 39-1204, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING
28 SECTION 39-1301, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION
29 39-1402, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-4602,
30 IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-4604, IDAHO
31 CODE, TO ALPHABETIZE TERMS, TO REVISE TERMINOLOGY AND TO MAKE
32 TECHNICAL CORRECTIONS; AMENDING SECTION 39-4803, IDAHO CODE, TO
33 REVISE TERMINOLOGY; AMENDING SECTION 39-5008, IDAHO CODE, TO REVISE
34 TERMINOLOGY; AMENDING SECTION 39-5102, IDAHO CODE, TO ALPHABETIZE
35 TERMS AND TO REVISE TERMINOLOGY; AMENDING SECTION 40-1335, IDAHO
36 CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 41-2139, IDAHO CODE,
37 TO REVISE TERMINOLOGY; AMENDING SECTION 41-2203, IDAHO CODE, TO
38 REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING
39 SECTION 41-3436, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION
40 49-114, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 50-460,
41 IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 54-903, IDAHO
42 CODE, TO REMOVE REDUNDANT LANGUAGE; AMENDING SECTION 54-935, IDAHO
43 CODE, TO REMOVE REDUNDANT LANGUAGE; AMENDING SECTION 54-1841, IDAHO
44 CODE, TO REMOVE REDUNDANT LANGUAGE; AMENDING SECTION 54-3401, IDAHO
45 CODE, TO REMOVE REDUNDANT LANGUAGE;

1 CODE, TO REMOVE REDUNDANT LANGUAGE; AMENDING SECTION 56-101, IDAHO
 2 CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS;
 3 AMENDING SECTION 56-108, IDAHO CODE, TO REVISE TERMINOLOGY AND TO
 4 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 56-113, IDAHO CODE, TO
 5 REVISE TERMINOLOGY; AMENDING SECTION 56-203, IDAHO CODE, TO REVISE
 6 TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
 7 56-218A, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-255,
 8 IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING THE HEADING FOR CHAPTER
 9 7, TITLE 56, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION
 10 56-701, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-701A,
 11 IDAHO CODE, TO REVISE TERMINOLOGY AND TO REMOVE REDUNDANT LANGUAGE;
 12 AMENDING SECTION 56-702, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING
 13 SECTION 56-703, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION
 14 56-707, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-802,
 15 IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-1004A, IDAHO
 16 CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 63-701, IDAHO CODE, TO
 17 REVISE TERMINOLOGY; AMENDING SECTION 66-329, IDAHO CODE, TO REVISE
 18 TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
 19 66-401, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 66-402,
 20 IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 66-408, IDAHO
 21 CODE, TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 67-2319, IDAHO
 22 CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 67-6530, IDAHO CODE,
 23 TO REVISE TERMINOLOGY; AMENDING SECTION 67-6531, IDAHO CODE, TO
 24 REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING
 25 SECTION 67-6532, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE
 26 TECHNICAL CORRECTIONS; AMENDING SECTION 67-6901, IDAHO CODE, TO REVISE
 27 TERMINOLOGY; AMENDING SECTION 67-6902, IDAHO CODE, TO ALPHABETIZE
 28 TERMS AND TO REVISE TERMINOLOGY; AMENDING SECTION 67-6903, IDAHO CODE,
 29 TO REVISE TERMINOLOGY; AMENDING SECTION 68-1301, IDAHO CODE, TO REVISE
 30 TERMINOLOGY; AMENDING SECTION 68-1405, IDAHO CODE, TO REMOVE REDUNDANT
 31 LANGUAGE; AMENDING SECTION 71-241, IDAHO CODE, TO REVISE TERMINOLOGY;
 32 AMENDING SECTION 72-430, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING
 33 SECTION 72-1316A, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION
 34 73-114, IDAHO CODE, TO ALPHABETIZE TERMS, TO DEFINE A TERM AND TO
 35 MAKE TECHNICAL CORRECTIONS; AND AMENDING CHAPTER 1, TITLE 73, IDAHO
 36 CODE, BY THE ADDITION OF A NEW SECTION 73-114A, IDAHO CODE, TO PROVIDE
 37 LEGISLATIVE INTENT ON RESPECTFUL LANGUAGE.

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

39 SECTION 1. That Section 5-334, Idaho Code, be, and the same is hereby
 40 amended to read as follows:

41 5-334. ACT OR OMISSION PREVENTING ABORTION NOT ACTIONABLE. (1) A cause
 42 of action shall not arise, and damages shall not be awarded, on behalf of
 43 any person, based on the claim that but for the act or omission of another,
 44 a person would not have been permitted to have been born alive but would have
 45 been aborted.

46 (2) The provisions of this section shall not preclude causes of action
 47 based on claims that, but for a wrongful act or omission, fertilization
 48 would not have occurred, maternal death would not have occurred or ~~handicap~~

1 disability, disease, defect or deficiency of an individual prior to birth
2 would have been prevented, cured or ameliorated in a manner that preserved
3 the health and life of the affected individual.

4 SECTION 2. That Section 9-205, Idaho Code, be, and the same is hereby
5 amended to read as follows:

6 9-205. INTERPRETERS. In any civil or criminal action in which any
7 witness or a party does not understand or speak the English language, or who
8 has a physical ~~handicap~~ disability which prevents him from fully hearing
9 or speaking the English language, then the court shall appoint a qualified
10 interpreter to interpret the proceedings to and the testimony of such
11 witness or party. Upon appointment of such interpreter, the court shall
12 cause to have the interpreter served with a subpoena as other witnesses,
13 and such interpreter shall be sworn to accurately and fully interpret
14 the testimony given at the hearing or trial to the best of his ability
15 before assuming his duties as an interpreter. The court shall determine a
16 reasonable fee for all such interpreter services which shall be paid out of
17 the district court fund.

18 SECTION 3. That Section 9-340C, Idaho Code, be, and the same is hereby
19 amended to read as follows:

20 9-340C. RECORDS EXEMPT FROM DISCLOSURE -- PERSONNEL RECORDS, PERSONAL
21 INFORMATION, HEALTH RECORDS, PROFESSIONAL DISCIPLINE. The following
22 records are exempt from disclosure:

23 (1) Except as provided in this subsection, all personnel records
24 of a current or former public official other than the public official's
25 public service or employment history, classification, pay grade and step,
26 longevity, gross salary and salary history, status, workplace and employing
27 agency. All other personnel information relating to a public employee
28 or applicant including, but not limited to, information regarding sex,
29 race, marital status, birth date, home address and telephone number,
30 applications, testing and scoring materials, grievances, correspondence
31 and performance evaluations, shall not be disclosed to the public without
32 the employee's or applicant's written consent. Names of applicants to
33 classified or merit system positions shall not be disclosed to the public
34 without the applicant's written consent. Disclosure of names as part of a
35 background check is permitted. Names of the five (5) final applicants to all
36 other positions shall be available to the public. If such group is less than
37 five (5) finalists, then the entire list of applicants shall be available to
38 the public. A public official or authorized representative may inspect and
39 copy his personnel records, except for material used to screen and test for
40 employment.

41 (2) Retired employees' and retired public officials' home addresses,
42 home telephone numbers and other financial and nonfinancial membership
43 records; active and inactive member financial and membership records
44 and mortgage portfolio loan documents maintained by the public employee
45 retirement system. Financial statements prepared by retirement system
46 staff, funding agents and custodians concerning the investment of assets

1 of the public employee retirement system of Idaho are not considered
2 confidential under this chapter.

3 (3) Information and records submitted to the Idaho state lottery
4 for the performance of background investigations of employees, lottery
5 retailers and major procurement contractors; audit records of lottery
6 retailers, vendors and major procurement contractors submitted to or
7 performed by the Idaho state lottery; validation and security tests of the
8 state lottery for lottery games; business records and information submitted
9 pursuant to sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code,
10 and such documents and information obtained and held for the purposes of
11 lottery security and investigative action as determined by lottery rules
12 unless the public interest in disclosure substantially outweighs the
13 private need for protection from public disclosure.

14 (4) Records of a personal nature as follows:

15 (a) Records of personal debt filed with a public agency or independent
16 public body corporate and politic pursuant to law;

17 (b) Personal bank records compiled by a public depositor for the
18 purpose of public funds transactions conducted pursuant to law;

19 (c) Records of ownership of financial obligations and instruments
20 of a public agency or independent public body corporate and politic,
21 such as bonds, compiled by the public agency or independent public body
22 corporate and politic pursuant to law;

23 (d) Records, with regard to the ownership of, or security interests in,
24 registered public obligations;

25 (e) Vital statistics records; and

26 (f) Military records as described in and pursuant to section 65-301,
27 Idaho Code.

28 (5) Information in an income or other tax return measured by items of
29 income or sales, which is gathered by a public agency for the purpose of
30 administering the tax, except such information to the extent disclosed in
31 a written decision of the tax commission pursuant to a taxpayer protest of
32 a deficiency determination by the tax commission, under the provisions of
33 section 63-3045B, Idaho Code.

34 (6) Records of a personal nature related directly or indirectly to the
35 application for and provision of statutory services rendered to persons
36 applying for public care for ~~the people who are~~ elderly, indigent, or have
37 ~~mentally or physically handicapped disabilities~~, or participation in an
38 environmental or a public health study, provided the provisions of this
39 subsection making records exempt from disclosure shall not apply to the
40 extent that such records or information contained in those records are
41 necessary for a background check on an individual that is required by federal
42 law regulating the sale of firearms, guns or ammunition.

43 (7) Employment security information, except that a person may agree,
44 through written, informed consent, to waive the exemption so that a third
45 party may obtain information pertaining to the person, unless access to
46 the information by the person is restricted by subsection (3) (a), (3) (b)
47 or (3) (d) of section 9-342, Idaho Code. Notwithstanding the provisions of
48 section 9-342, Idaho Code, a person may not review identifying information
49 concerning an informant who reported to the department of labor a suspected
50 violation by the person of the employment security law, chapter 13, title 72,

1 Idaho Code, under an assurance of confidentiality. As used in this section
2 and in chapter 13, title 72, Idaho Code, "employment security information"
3 means any information descriptive of an identifiable person or persons that
4 is received by, recorded by, prepared by, furnished to or collected by the
5 department of labor or the industrial commission in the administration of
6 the employment security law.

7 (8) Any personal records, other than names, business addresses and
8 business phone numbers, such as parentage, race, religion, sex, height,
9 weight, tax identification and social security numbers, financial worth or
10 medical condition submitted to any public agency or independent public body
11 corporate and politic pursuant to a statutory requirement for licensing,
12 certification, permit or bonding.

13 (9) Unless otherwise provided by agency rule, information obtained
14 as part of an inquiry into a person's fitness to be granted or retain a
15 license, certificate, permit, privilege, commission or position, private
16 association peer review committee records authorized in title 54, Idaho
17 Code. Any agency which has records exempt from disclosure under the
18 provisions of this subsection shall annually make available a statistical
19 summary of the number and types of matters considered and their disposition.

20 (10) The records, findings, determinations and decisions of any
21 prelitigation screening panel formed under chapters 10 and 23, title 6,
22 Idaho Code.

23 (11) Complaints received by the board of medicine and investigations
24 and informal proceedings, including informal proceedings of any committee
25 of the board of medicine, pursuant to chapter 18, title 54, Idaho Code, and
26 rules adopted thereunder.

27 (12) Records of the department of health and welfare or a public health
28 district that identify a person infected with a reportable disease.

29 (13) Records of hospital care, medical records, including
30 prescriptions, drug orders, records or any other prescription information
31 that specifically identifies an individual patient, prescription records
32 maintained by the board of pharmacy under sections 37-2726 and 37-2730A,
33 Idaho Code, records of psychiatric care or treatment and professional
34 counseling records relating to an individual's condition, diagnosis, care
35 or treatment, provided the provisions of this subsection making records
36 exempt from disclosure shall not apply to the extent that such records or
37 information contained in those records are necessary for a background check
38 on an individual that is required by federal law regulating the sale of
39 firearms, guns or ammunition.

40 (14) Information collected pursuant to the directory of new hires act,
41 chapter 16, title 72, Idaho Code.

42 (15) Personal information contained in motor vehicle and driver records
43 that is exempt from disclosure under the provisions of chapter 2, title 49,
44 Idaho Code.

45 (16) Records of the financial status of prisoners pursuant to
46 subsection (2) of section 20-607, Idaho Code.

47 (17) Records of the Idaho state police or department of correction
48 received or maintained pursuant to section 19-5514, Idaho Code, relating to
49 DNA databases and databanks.

1 (18) Records of the department of health and welfare relating to a
2 survey, resurvey or complaint investigation of a licensed nursing facility
3 shall be exempt from disclosure. Such records shall, however, be subject
4 to disclosure as public records as soon as the facility in question has
5 received the report, and no later than the fourteenth day following the
6 date that department of health and welfare representatives officially exit
7 the facility pursuant to federal regulations. Provided however, that for
8 purposes of confidentiality, no record shall be released under this section
9 which specifically identifies any nursing facility resident.

10 (19) Records and information contained in the registry of immunizations
11 against childhood diseases maintained in the department of health and
12 welfare, including information disseminated to others from the registry by
13 the department of health and welfare.

14 (20) Records of the Idaho housing and finance association (IHFA)
15 relating to the following:

16 (a) Records containing personal financial, family, health or similar
17 personal information submitted to or otherwise obtained by the IHFA;

18 (b) Records submitted to or otherwise obtained by the IHFA with regard
19 to obtaining and servicing mortgage loans and all records relating to
20 the review, approval or rejection by the IHFA of said loans;

21 (c) Mortgage portfolio loan documents;

22 (d) Records of a current or former employee other than the employee's
23 duration of employment with the association, position held and location
24 of employment. This exemption from disclosure does not include the
25 contracts of employment or any remuneration, including reimbursement
26 of expenses, of the executive director, executive officers or
27 commissioners of the association. All other personnel information
28 relating to an association employee or applicant including, but not
29 limited to, information regarding sex, race, marital status, birth
30 date, home address and telephone number, applications, testing and
31 scoring materials, grievances, correspondence, retirement plan
32 information and performance evaluations, shall not be disclosed to
33 the public without the employee's or applicant's written consent.
34 An employee or authorized representative may inspect and copy that
35 employee's personnel records, except for material used to screen and
36 test for employment or material not subject to disclosure elsewhere in
37 the Idaho public records act.

38 (21) Records of the department of health and welfare related to child
39 support services in cases in which there is reasonable evidence of domestic
40 violence, as defined in chapter 63, title 39, Idaho Code, that can be used
41 to locate any individuals in the child support case except in response to a
42 court order.

43 (22) Records of the Idaho state bar lawyer assistance program pursuant
44 to chapter 49, title 54, Idaho Code, unless a participant in the program
45 authorizes the release pursuant to subsection (4) of section 54-4901, Idaho
46 Code.

47 (23) Records and information contained in the trauma registry created
48 by chapter 20, title 57, Idaho Code, together with any reports, analyses and
49 compilations created from such information and records.

1 (24) Records contained in the court files, or other records prepared as
 2 part of proceedings for judicial authorization of sterilization procedures
 3 pursuant to chapter 39, title 39, Idaho Code.

4 (25) The physical voter registration card on file in the county clerk's
 5 office; however, a redacted copy of said card shall be made available
 6 consistent with the requirements of this section. Information from the
 7 voter registration card maintained in the statewide voter registration
 8 database, including age, will be made available except for the voter's
 9 driver's license number, date of birth and, upon showing of good cause by
 10 the voter to the county clerk in consultation with the county prosecuting
 11 attorney, the physical residence address of the voter. For the purposes of
 12 this subsection good cause shall include the protection of life and property
 13 and protection of victims of domestic violence and similar crimes.

14 (26) File numbers, passwords and information in the files of the health
 15 care directive registry maintained by the secretary of state under section
 16 39-4515, Idaho Code, are confidential and shall not be disclosed to any
 17 person other than to the person who executed the health care directive or the
 18 revocation thereof and that person's legal representatives, to the person
 19 who registered the health care directive or revocation thereof, and to
 20 physicians, hospitals, medical personnel, nursing homes, and other persons
 21 who have been granted file number and password access to the documents within
 22 that specific file.

23 (27) Records in an address confidentiality program participant's
 24 file as provided for in chapter 57, title 19, Idaho Code, other than the
 25 address designated by the secretary of state, except under the following
 26 circumstances:

- 27 (a) If requested by a law enforcement agency, to the law enforcement
- 28 agency; or
- 29 (b) If directed by a court order, to a person identified in the order.

30 SECTION 4. That Section 10-1204, Idaho Code, be, and the same is hereby
 31 amended to read as follows:

32 10-1204. REPRESENTATIVES AND PERSONS BENEFICIALLY INTERESTED --
 33 RIGHT TO DECLARATION. Any person interested as or through an executor,
 34 administrator, trustee, guardian or other fiduciary, creditor, devisee,
 35 legatee, heir, next of kin, or cestui que trust, in the administration of
 36 a trust, or of the estate of a decedent, an infant, ~~lunatic~~ a person with a
 37 mental disability or insolvent, may have a declaration of rights or legal
 38 relations in respect thereto;

- 39 (a) To ascertain any class of creditors, devisees, legatees, heirs,
 40 next of kin or other; or
- 41 (b) To direct the executors, administrators or trustees to do or
 42 abstain from doing any particular act in their fiduciary capacity; or
- 43 (c) To determine any question arising in the administration of the
 44 estate or trust, including questions of construction of wills and other
 45 writings.

46 SECTION 5. That Section 15-5-401, Idaho Code, be, and the same is hereby
 47 amended to read as follows:

1 15-5-401. PROTECTIVE PROCEEDINGS. Upon petition and after notice
2 and hearing in accordance with the provisions of this Part, the court may
3 appoint a conservator or make other protective order for cause as follows:

4 (a) Appointment of a conservator or other protective order may be made
5 in relation to the estate and affairs of a minor if the court determines that
6 a minor owns money or property that requires management or protection which
7 cannot otherwise be provided, has or may have business affairs which may
8 be jeopardized or prevented by his minority, or that funds are needed for
9 his support and education and that protection is necessary or desirable to
10 obtain or provide funds.

11 (b) Appointment of a conservator or other protective order may be made
12 in relation to the estate and affairs of a person if the court determines
13 that (1) the person is unable to manage his property and affairs effectively
14 for reasons such as mental illness, mental ~~deficiency~~ disability, physical
15 illness or disability, chronic use of drugs, chronic intoxication,
16 confinement, detention by a foreign power, or disappearance; and (2)
17 the person has property which will be wasted or dissipated unless proper
18 management is provided, or that funds are needed for the support, care and
19 welfare of the person or those entitled to be supported by him and that
20 protection is necessary or desirable to obtain or provide funds.

21 SECTION 6. That Section 15-5-407, Idaho Code, be, and the same is hereby
22 amended to read as follows:

23 15-5-407. PROCEDURE CONCERNING HEARING AND ORDER ON ORIGINAL
24 PETITION. (a) Upon receipt of a petition for appointment of a conservator
25 or other protective order because of minority, the court shall set a date
26 for hearing on the matters alleged in the petition. If, at any time in the
27 proceeding, the court determines that the interests of the minor are or may
28 be inadequately represented, it must appoint an attorney to represent the
29 minor, giving consideration to the choice of the minor if fourteen (14) years
30 of age or older. A lawyer appointed by the court to represent a minor has the
31 powers and duties of a guardian ad litem.

32 (b) Upon receipt of a petition for appointment of a conservator or other
33 protective order for reasons other than minority, the court shall set a date
34 for hearing.

35 Unless the person to be protected has counsel of his own choice, the
36 court may appoint a lawyer to represent him who then has the powers and
37 duties of a guardian ad litem. If the alleged disability is mental illness,
38 mental ~~deficiency~~ disability, physical illness or disability, advanced age,
39 chronic use of drugs, or chronic intoxication, the court may direct that the
40 person to be protected be examined by a physician designated by the court,
41 preferably a physician who is not connected with any institution in which the
42 person is a patient or is detained. The court may send a visitor to interview
43 the person to be protected. The visitor may be a guardian ad litem or an
44 officer or employee of the court.

45 (c) After hearing, upon finding that a basis of the appointment of a
46 conservator or other protective order has been established, the court shall
47 make an appointment or other appropriate order.

1 SECTION 7. That Section 18-6101, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 18-6101. RAPE DEFINED. Rape is defined as the penetration, however
4 slight, of the oral, anal or vaginal opening with the perpetrator's penis
5 accomplished with a female under any one (1) of the following circumstances:

6 1. Where the female is under the age of eighteen (18) years.

7 2. Where she is incapable, through any unsoundness of mind, due to
8 any cause including, but not limited to, mental illness, mental ~~deficiency~~
9 disability or developmental disability, whether temporary or permanent, of
10 giving legal consent.

11 3. Where she resists but her resistance is overcome by force or
12 violence.

13 4. Where she is prevented from resistance by the infliction, attempted
14 infliction, or threatened infliction of bodily harm, accompanied by
15 apparent power of execution; or is unable to resist due to any intoxicating,
16 narcotic, or anaesthetic substance.

17 5. Where she is at the time unconscious of the nature of the act. As used
18 in this section, "unconscious of the nature of the act" means incapable of
19 resisting because the victim meets one (1) of the following conditions:

20 (a) Was unconscious or asleep;

21 (b) Was not aware, knowing, perceiving, or cognizant that the act
22 occurred.

23 6. Where she submits under the belief that the person committing the
24 act is her husband, and the belief is induced by artifice, pretense or
25 concealment practiced by the accused, with intent to induce such belief.

26 7. Where she submits under the belief, instilled by the actor, that if
27 she does not submit, the actor will cause physical harm to some person in the
28 future; or cause damage to property; or engage in other conduct constituting
29 a crime; or accuse any person of a crime or cause criminal charges to be
30 instituted against her; or expose a secret or publicize an asserted fact,
31 whether true or false, tending to subject any person to hatred, contempt or
32 ridicule.

33 SECTION 8. That Section 19-2515A, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 19-2515A. IMPOSITION OF DEATH PENALTY UPON ~~MENTALLY RETARDED~~
36 INTELLECTUALLY DISABLED PERSON PROHIBITED. (1) As used in this section:

37 (a) "~~Mentally retarded~~Intellectual disability" means significantly
38 subaverage general intellectual functioning that is accompanied
39 by significant limitations in adaptive functioning in at least two
40 (2) of the following skill areas: communication, self-care, home
41 living, social or interpersonal skills, use of community resources,
42 self-direction, functional academic skills, work, leisure, health
43 and safety. The onset of significant subaverage general intelligence
44 functioning and significant limitations in adaptive functioning must
45 occur before age eighteen (18) years.

46 (b) "Significantly subaverage general intellectual functioning" means
47 an intelligence quotient of seventy (70) or below.

1 (2) In any case in which the state has provided notice of an intent to
2 seek the death penalty pursuant to section 18-4004A, Idaho Code, and where
3 the defendant intends to claim that he is ~~mentally retarded~~ intellectually
4 disabled and call expert witnesses concerning such issue, the defendant
5 shall give notice to the court and the state of such intention at least
6 ninety (90) days in advance of trial, or such other period as justice may
7 require, and shall apply for an order directing that ~~a mental retardation~~
8 an intellectual disability hearing be conducted. Upon receipt of such
9 application, the court shall promptly conduct a hearing without a jury
10 to determine whether the defendant is ~~mentally retarded~~ intellectually
11 disabled; provided however, that no court shall, over the objection of any
12 party, receive the evidence of any expert witness on the issue of ~~mental~~
13 ~~retardation~~ intellectual disability unless such evidence is fully subject
14 to the adversarial process in at least the following particulars:

15 (a) If a defendant fails to provide notice as required in this
16 subsection, an expert witness shall not be permitted to testify until
17 such time as the state has a complete opportunity to consider the
18 substance of such testimony and prepare for rebuttal through such
19 opposing experts as the state may choose.

20 (b) A party who expects to call an expert witness to testify on the issue
21 of ~~mental retardation~~ intellectual disability shall, on a schedule to
22 be set by the court, furnish to the opposing party a written synopsis
23 of the findings of such expert or a copy of a written report. The court
24 may authorize the taking of depositions to inquire further into the
25 substance of such synopsis or report.

26 (c) Raising the issue of ~~mental retardation~~ intellectual disability
27 shall constitute a waiver of any privilege that might otherwise be
28 interposed to bar the production of evidence on the subject and, upon
29 request, the court shall order that the state's experts shall have
30 access to the defendant in such cases for the purpose of having its own
31 experts conduct an examination in preparation for any legal proceeding
32 at which the defendant's ~~mental retardation~~ intellectual disability
33 may be in issue.

34 (d) The court is authorized to appoint at least one (1) expert at
35 public expense upon a showing by an indigent defendant that there is a
36 need to inquire into questions of the defendant's ~~mental retardation~~
37 intellectual disability. The defendant shall pay the costs of
38 examination if he is financially able. The determination of ability
39 to pay shall be made in accordance with chapter 8, title 19, Idaho
40 Code. The report of the examination shall be filed in triplicate with
41 the clerk of the court, who shall cause copies to be delivered to the
42 prosecuting attorney and to counsel for the defendant.

43 (e) If an examination cannot be conducted by reason of the
44 unwillingness of the defendant to cooperate with either a
45 court-appointed examiner or with any state expert, the examiner or
46 expert shall so advise the court in writing and include, if possible, an
47 opinion as to whether such unwillingness of the defendant was the result
48 of ~~mental retardation~~ intellectual disability. The court may consider
49 the defendant's lack of cooperation for its effect on the credibility of
50 the defendant's ~~mental retardation~~ intellectual disability claim.

1 (3) If the court finds by a preponderance of the evidence that
2 the defendant is ~~mentally retarded~~ intellectually disabled, the death
3 penalty shall not be imposed. The jury shall not be informed of the ~~mental~~
4 ~~retardation~~ intellectual disability hearing or the court's findings
5 concerning the defendant's claim of ~~mental retardation~~ intellectual
6 disability.

7 (4) In the event of a conviction of first-degree murder of a person who
8 has been found to be ~~mentally retarded~~ intellectually disabled pursuant to
9 subsections (2) and (3) of this section, a special sentencing proceeding
10 shall be held promptly to determine whether the state has proven beyond
11 a reasonable doubt the existence of any of the statutory aggravating
12 circumstances set forth in subsections 19-2515(9) (a) through (k), Idaho
13 Code.

14 (a) The special sentencing proceeding shall be conducted before a
15 jury unless a jury is waived by the defendant with the consent of the
16 prosecuting attorney.

17 (i) If the defendant's guilt was determined by a jury verdict, the
18 same jury shall hear the special sentencing proceeding; provided
19 however, that if it is impracticable to reconvene the same jury
20 to hear the special sentencing proceeding due to an insufficient
21 number of jurors, the trial court may dismiss that jury and convene
22 a new jury of twelve (12) persons, plus alternate jurors as the
23 trial court deems necessary pursuant to section 19-1904, Idaho
24 Code.

25 (ii) If the defendant's guilt was determined by a plea of guilty
26 or by a decision of the trial court sitting without a jury, or if
27 a retrial of the special sentencing proceeding is necessary for
28 any reason including, but not limited to, a mistrial in a previous
29 special sentencing proceeding or as a consequence of a remand
30 from an appellate court, the trial court shall impanel a jury of
31 twelve (12) persons, plus alternate jurors as the trial court
32 deems necessary pursuant to section 19-1904, Idaho Code, unless
33 such jury is waived.

34 (iii) If a special sentencing proceeding is conducted before
35 a newly impaneled jury, the state and the defense may present
36 evidence to inform the jury of the nature and circumstances of the
37 murder for which the defendant was convicted. The newly impaneled
38 jury shall be instructed that the defendant has previously been
39 found guilty of first-degree murder and that the jury's purpose is
40 limited to making findings relevant for sentencing.

41 (b) At the special sentencing proceeding, the state and the defendant
42 shall be entitled to present all evidence relevant to the determination
43 of whether or not a statutory aggravating circumstance has been proven
44 beyond a reasonable doubt. Disclosure of evidence to be relied on in the
45 sentencing proceeding shall be made in accordance with Idaho criminal
46 rule 16. Evidence admitted at trial shall be considered and need not be
47 repeated at the sentencing hearing.

48 (c) If a unanimous jury, or the court if a jury is waived, finds the
49 existence of a statutory aggravating circumstance beyond a reasonable
50 doubt, the court shall impose a fixed life sentence. If a unanimous

1 jury, or the court if a jury is waived, does not find the existence of
 2 a statutory aggravating circumstance beyond a reasonable doubt, the
 3 court shall impose a life sentence with a minimum period of confinement
 4 of not less than ten (10) years during which period of confinement the
 5 defendant shall not be eligible for parole or discharge or credit or
 6 reduction of sentence for good conduct, except for meritorious service.

7 (5) Nothing in this section is intended to alter the application of any
 8 rule of evidence or limit or extend the right of any party to assert any claim
 9 or defense otherwise available to that party.

10 (6) Any remedy available by post-conviction procedure or habeas corpus
 11 shall be pursued according to the procedures and time limits set forth in
 12 section 19-2719, Idaho Code.

13 SECTION 9. That Section 20-225, Idaho Code, be, and the same is hereby
 14 amended to read as follows:

15 20-225. PAYMENT FOR COST OF SUPERVISION. Any person under state
 16 probation or parole supervision shall be required to contribute not
 17 more than fifty dollars (\$50.00) per month as determined by the board of
 18 correction. Costs of supervision are the direct and indirect costs incurred
 19 by the department of correction to supervise probationers and parolees,
 20 including tests to determine drug and alcohol use, books and written
 21 materials to support rehabilitation efforts, and monitoring of physical
 22 location through the use of technology. Any failure to pay such contribution
 23 shall constitute grounds for the revocation of probation by the court or the
 24 revocation of parole by the commission for pardons and parole. The division
 25 of probation and parole in the department of correction may exempt a person
 26 from the payment of all or any part of the foregoing contribution if it finds
 27 any of the following factors to exist:

28 (1) The offender has diligently attempted but been unable to obtain
 29 employment.

30 (2) The offender has ~~an~~ a disability affecting employment handicap,
 31 as determined by a physical, psychological, or psychiatric examination
 32 acceptable to the division of probation and parole.

33 Money collected as a fee for services will be placed in the probation and
 34 parole receipts revenue fund, which is hereby created in the dedicated fund
 35 in the state treasury, and utilized to provide supervision for clients.
 36 Moneys in the probation and parole receipts revenue fund may be expended only
 37 after appropriation by the legislature.

38 SECTION 10. That Section 20-508, Idaho Code, be, and the same is hereby
 39 amended to read as follows:

40 20-508. WAIVER OF JURISDICTION AND TRANSFER TO OTHER COURTS. (1) After
 41 the filing of a petition and after full investigation and hearing, the court
 42 may waive jurisdiction under the juvenile corrections act over the juvenile
 43 and order that the juvenile be held for adult criminal proceedings when:

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

46 (b) A juvenile is alleged to have committed an act other than those
 47 enumerated in section 20-509, Idaho Code, after the child became

1 fourteen (14) years of age which would be a crime if committed by an
2 adult; or

3 (c) An adult at the time of the filing of the petition is alleged to have
4 committed an act prior to his having become eighteen (18) years of age
5 which would be a felony if committed by an adult, and the court finds
6 that the adult is not committable to an institution for ~~the mentally~~
7 ~~deficient~~ people with intellectual disabilities or mentally illness,
8 is not treatable in any available institution or facility available to
9 the state designed for the care and treatment of juveniles, or that the
10 safety of the community requires the adult continue under restraint; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the maximum period of imprisonment that could be imposed on an adult
2 convicted of the same crime.

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

12 SECTION 11. That Section 32-106, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 32-106. CONTRACTS OF ~~IDIOTS~~ PERSONS WITHOUT UNDERSTANDING. A person
15 entirely without understanding has no power to make a contract of any
16 kind, but he is liable for the reasonable value of things furnished to him
17 necessary for his support or the support of his family.

18 SECTION 12. That Section 33-124, Idaho Code, be, and the same is hereby
19 amended to read as follows:

20 33-124. SPECIAL VOCATIONAL EDUCATION PROGRAMS. Any school district,
21 or combination of school districts, within the state of Idaho, including
22 charter districts, may submit to the state board of education a plan
23 for the operation of a program providing instruction and training for
24 ~~handicapped~~ students with disabilities under the age of twenty-two (22)
25 years in vocational education. The state board of education may approve
26 or disapprove such a plan. However, should the state board approve such a
27 plan, then the program operated under such a plan shall be entitled to all
28 considerations and benefits which by law are available to the educational
29 programs of the school districts.

30 SECTION 13. That Section 33-403A, Idaho Code, be, and the same is hereby
31 amended to read as follows:

32 33-403A. ASSISTANCE TO VOTER. ~~a-(1)~~ If any elector is unable, due
33 to physical ~~disability~~ or other ~~handicap~~ disability, to enter the polling
34 place, he may be handed a ballot outside the polling place but within forty
35 (40) feet thereof by one (1) of the election clerks, and in his presence, but
36 in a secret manner, mark and return the same to such election officer who
37 shall proceed to deposit the ballot as provided by law.

38 ~~b-(2)~~ If any elector, who is unable by reason of physical ~~disability~~
39 or other ~~handicap~~ disability to record his vote by personally marking his
40 ballot and who desires to vote, then and in that case such elector shall be
41 given assistance by the person of his choice or by one (1) of the election
42 clerks. Such clerk or selected person shall mark the ballot in the manner
43 directed by the elector and fold it properly and present it to the elector
44 before leaving the voting compartment or area provided for such purpose. The

1 elector shall then present it to the judge of election who shall deposit the
2 ballot as provided by law.

3 SECTION 14. That Section 33-1002, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 33-1002. EDUCATIONAL SUPPORT PROGRAM. The educational support
6 program is calculated as follows:

7 (1) State Educational Support Funds. Add the state appropriation,
8 including the moneys available in the public school income fund, together
9 with all miscellaneous revenues to determine the total state funds.

10 (2) From the total state funds subtract the following amounts needed
11 for state support of special programs provided by a school district:

12 (a) Pupil tuition-equivalency allowances as provided in section
13 33-1002B, Idaho Code;

14 (b) Transportation support program as provided in section 33-1006,
15 Idaho Code;

16 (c) Feasibility studies allowance as provided in section 33-1007A,
17 Idaho Code;

18 (d) The approved costs for border district allowance, provided in
19 section 33-1403, Idaho Code, as determined by the state superintendent
20 of public instruction;

21 (e) The approved costs for exceptional child approved contract
22 allowance, provided in subsection 2. of section 33-2004, Idaho Code, as
23 determined by the state superintendent of public instruction;

24 (f) Certain expectant and delivered mothers allowance as provided in
25 section 33-2006, Idaho Code;

26 (g) Salary-based apportionment calculated as provided in sections
27 33-1004 through 33-1004F, Idaho Code;

28 (h) Unemployment insurance benefit payments according to the
29 provisions of section 72-1349A, Idaho Code;

30 (i) For expenditure as provided by the public school technology
31 program;

32 (j) For employee severance payments as provided in section 33-521,
33 Idaho Code;

34 (k) For distributions to the Idaho digital learning academy as provided
35 in section 33-1020, Idaho Code;

36 (l) For the support of provisions that provide a safe environment
37 conducive to student learning and maintain classroom discipline, an
38 allocation of \$300 per support unit; and

39 (m) Any additional amounts as required by statute to effect
40 administrative adjustments or as specifically required by the
41 provisions of any bill of appropriation;

42 to secure the total educational support distribution funds.

43 (3) Average Daily Attendance. The total state average daily attendance
44 shall be the sum of the average daily attendance of all of the school
45 districts of the state. The state board of education shall establish rules
46 setting forth the procedure to determine average daily attendance and the
47 time for, and method of, submission of such report. Average daily attendance
48 calculation shall be carried out to the nearest hundredth. Computation of

1 average daily attendance shall also be governed by the provisions of section
 2 33-1003A, Idaho Code.

3 (4) Support Units. The total state support units shall be determined
 4 by using the tables set out hereafter called computation of kindergarten
 5 support units, computation of elementary support units, computation of
 6 secondary support units, computation of exceptional education support
 7 units, and computation of alternative school secondary support units. The
 8 sum of all of the total support units of all school districts of the state
 9 shall be the total state support units.

10 COMPUTATION OF KINDERGARTEN SUPPORT UNITS

11 Average Daily

12 Attendance	Attendance Divisor	Units Allowed
13 41 or more	40	1 or more as computed
14 31 - 40.99 ADA	-	1
15 26 - 30.99 ADA . . . .	- . . . . .	.85
16 21 - 25.99 ADA . . . .	- . . . . .	.75
17 16 - 20.99 ADA . . . .	- . . . . .	.6
18 8 - 15.99 ADA . . . .	- . . . . .	.5
19 1 - 7.99 ADA	-	count as elementary

20 COMPUTATION OF ELEMENTARY SUPPORT UNITS

21 Average Daily

22 Attendance	Attendance Divisor	Minimum Units Allowed
23 300 or more ADA . . . . .	. . . . .	.. 15
24	..23...grades 4,5 & 6	
25	..22...grades 1,2 & 31994-95	
26	..21...grades 1,2 & 31995-96	
27	..20...grades 1,2 & 31996-97	
28	and each year thereafter.	
29 160 to 299.99 ADA	20	8.4
30 110 to 159.99 ADA	19	6.8
31 71.1 to 109.99 ADA	16	4.7
32 51.7 to 71.0 ADA	15	4.0
33 33.6 to 51.6 ADA	13	2.8
34 16.6 to 33.5 ADA	12	1.4
35 1.0 to 16.5 ADA	n/a	1.0

36 COMPUTATION OF SECONDARY SUPPORT UNITS

37 Average Daily

38 Attendance	Attendance Divisor	Minimum Units Allowed
39 750 or more	18.5	47
40 400 - 749.99 ADA	16	28

1	300 - 399.99 ADA....	14.5.....	22
2	200 - 299.99 ADA....	13.5.....	17
3	100 - 199.99 ADA....	12.....	9
4	99.99 or fewer	Units allowed as follows:	
5	Grades 7-12	.....	8
6	Grades 9-12	.....	6
7	Grades 7- 9	.....	1 per 14 ADA
8	Grades 7- 8	.....	1 per 16 ADA

COMPUTATION OF EXCEPTIONAL EDUCATION SUPPORT UNITS

9	Average Daily		Minimum Units
10	Attendance	Attendance Divisor	Allowed
11	14 or more	14.5.....	1 or more as
12			computed
13	12 - 13.99....	-.....	1
14	8 - 11.99....	-.....	.75
15	4 - 7.99....	-.....	.5
16	1 - 3.99....	-.....	.25
17			

COMPUTATION OF ALTERNATIVE SCHOOL SECONDARY SUPPORT UNITS

18	Pupils in Attendance	Attendance Divisor	Minimum Units
19			Allowed
20	12 or more.....	12.....	1 or more as
21			computed
22			

23 In applying these tables to any given separate attendance unit, no
 24 school district shall receive less total money than it would receive if it
 25 had a lesser average daily attendance in such separate attendance unit.
 26 In applying the kindergarten table to a kindergarten program of less days
 27 than a full school year, the support unit allowance shall be in ratio to the
 28 number of days of a full school year. The tables for exceptional education
 29 and alternative school secondary support units shall be applicable only
 30 for programs approved by the state department of education following
 31 rules established by the state board of education. Moneys generated from
 32 computation of support units for alternative schools shall be utilized for
 33 alternative school programs. School district administrative and facility
 34 costs may be included as part of the alternative school expenditures.

35 (5) State Distribution Factor per Support Unit. Divide educational
 36 support program distribution funds, after subtracting the amounts necessary
 37 to pay the obligations specified in subsection (2) of this section, by
 38 the total state support units to secure the state distribution factor per
 39 support unit.

40 (6) District Support Units. The number of support units for each school
 41 district in the state shall be determined as follows:

42 (a) (i) Divide the actual average daily attendance, excluding
 43 students approved for inclusion in the exceptional child

1 educational program, for the administrative schools and each
 2 of the separate schools and attendance units by the appropriate
 3 divisor from the tables of support units in this section,
 4 then add the quotients to obtain the district's support units
 5 allowance for regular students, kindergarten through grade 12
 6 including alternative school secondary students. Calculations in
 7 application of this subsection shall be carried out to the nearest
 8 tenth.

9 (ii) Divide the combined totals of the average daily attendance of
 10 all preschool, ~~handicapped,~~ kindergarten, elementary, secondary,
 11 ~~and~~ juvenile detention center students and students with
 12 disabilities approved for inclusion in the exceptional child
 13 program of the district by the appropriate divisor from the table
 14 for computation of exceptional education support units to obtain
 15 the number of support units allowed for the district's approved
 16 exceptional child program. Calculations for this subsection
 17 shall be carried out to the nearest tenth when more than one (1)
 18 unit is allowed.

19 (iii) The total number of support units of the district shall
 20 be the sum of the total support units for regular students,
 21 subsection (6)(a)(i) of this section, and the support units
 22 allowance for the approved exceptional child program, subsection
 23 (6)(a)(ii) of this section.

24 (b) Total District Allowance Educational Program. Multiply the
 25 district's total number of support units, carried out to the nearest
 26 tenth, by the state distribution factor per support unit and to this
 27 product add the approved amount of programs of the district provided in
 28 subsection (2) of this section to secure the district's total allowance
 29 for the educational support program.

30 (c) District Share. The district's share of state apportionment is
 31 the amount of the total district allowance, subsection (6)(b) of this
 32 section.

33 (d) Adjustment of District Share. The contract salary of every
 34 noncertificated teacher shall be subtracted from the district's share
 35 as calculated from the provisions of subsection (6)(c) of this section.

36 (7) Property Tax Computation Ratio. In order to receive state
 37 funds pursuant to this section a charter district shall utilize a school
 38 maintenance and operation property tax computation ratio for the purpose of
 39 calculating its maintenance and operation levy, that is no greater than that
 40 which it utilized in tax year 1994, less four-tenths of one percent (.4%).
 41 As used herein, the term "property tax computation ratio" shall mean a ratio
 42 determined by dividing the district's certified property tax maintenance
 43 and operation budget by the actual or adjusted market value for assessment
 44 purposes as such values existed on December 31, 1993. Such maintenance
 45 and operation levy shall be based on the property tax computation ratio
 46 multiplied by the actual or adjusted market value for assessment purposes as
 47 such values existed on December 31 of the prior calendar year.

48 SECTION 15. That Section 33-1007, Idaho Code, be, and the same is hereby
 49 amended to read as follows:

1 33-1007. EXCEPTIONAL EDUCATION PROGRAM REPORT. The state department
 2 of education shall report annually to the legislature the status of the
 3 exceptional education support program. The report shall include, but not be
 4 limited to, data concerning the number of ~~persons~~ students with disabilities
 5 and gifted students served, ~~both handicapped and gifted,~~ the districts
 6 which operate programs and the nature of the program, the money distributed
 7 pursuant to the provisions of the exceptional education support program, and
 8 estimated number of ~~persons, both handicapped~~ students with disabilities
 9 and gifted students, requiring but not receiving services. The report shall
 10 be filed not later than the fifteenth day of the legislative session and may
 11 include recommendations of the board relating to administrations of the
 12 program.

13 SECTION 16. That Section 33-1404, Idaho Code, be, and the same is hereby
 14 amended to read as follows:

15 33-1404. DISTRICTS TO RECEIVE PUPILS. Every school district shall
 16 receive and admit pupils transferred thereto, where payment of their
 17 tuition is to be paid by the home district, or waived by the receiving
 18 district, except when any such transfer would work a hardship on the
 19 receiving district. Each receiving school district shall be governed by
 20 written policy guidelines, adopted by the board of trustees, which define
 21 hardship impact upon the district or upon an individual school within the
 22 district. The policy shall provide specific standards for acceptance and
 23 rejection of applications for accepting out of district pupils. Standards
 24 may include the capacity of a program, class, grade level or school building.
 25 Standards may not include previous academic achievement, athletic or other
 26 extracurricular ability, ~~handicapping~~ disabling conditions, or proficiency
 27 in the English language.

28 Nonresident pupils who are placed by court order under provisions of the
 29 Idaho juvenile corrections or child protective acts and reside in licensed
 30 homes, agencies and institutions shall be received and admitted by the
 31 school district in which the facility is located without payment of tuition.

32 Homeless children and youth as defined by the ~~Stewart B. McKinney~~
 33 ~~homeless assistance act (P.L. 100-77)~~ McKinney-Vento homeless assistance
 34 act 42 U.S.C. section 11301 et seq., may attend any school district or school
 35 within a district without payment of tuition when it is determined to be in
 36 the best interest of that child.

37 SECTION 17. That Section 33-2001, Idaho Code, be, and the same is hereby
 38 amended to read as follows:

39 33-2001. DEFINITIONS. ~~(1-)~~ "Ancillary personnel" means those persons
 40 who render special services to exceptional children in regular or in
 41 addition to regular or special class instruction as defined by the state
 42 board of education.

43 (2) "Children with disabilities" means those children with
 44 cognitive impairments, hearing impairments, deafness, speech or language
 45 impairments, visual impairments, blindness, deaf-blindness, serious
 46 emotional disturbance, orthopedic impairments, severe or multiple
 47 disabilities, autism, traumatic brain injury, developmental delay or

1 specific learning disabilities, and who by reason of the qualifying
 2 disability require special education and related services.

3 ~~2.~~(3) "Exceptional children" means both children with disabilities and
 4 gifted/talented children with regard to funding for school districts.

5 ~~3. "Children with disabilities" mean those children with mental~~
 6 ~~retardation, hearing impairments, deafness, speech or language~~
 7 ~~impairments, visual impairments, blindness, deaf blindness, serious~~
 8 ~~emotional disturbance, orthopedic impairments, severe or multiple~~
 9 ~~disabilities, autism, traumatic brain injury, developmental delay or~~
 10 ~~specific learning disabilities, and who by reason of the qualifying~~
 11 ~~disability requires special education and related services.~~

12 ~~(4.)~~ "Gifted/talented children" means those students who are
 13 identified as possessing demonstrated or potential abilities that give
 14 evidence of high performing capabilities in intellectual, creative,
 15 specific academic or leadership areas, or ability in the performing or
 16 visual arts and who require services or activities not ordinarily provided
 17 by the school in order to fully develop such capabilities.

18 ~~(5.)~~ "Special education" or "special instructional service" means
 19 specially designed instruction or a related service, at no cost to the
 20 parents, to meet the unique needs of an exceptional child.

21 SECTION 18. That Section 33-4407, Idaho Code, be, and the same is hereby
 22 amended to read as follows:

23 33-4407. ELIGIBLE TYPES OF EMPLOYMENT. Students may be employed
 24 either on-campus or off-campus at eligible accredited institutions of
 25 higher education, subject to the limitations expressed in this chapter.
 26 Employing organizations and agencies must be responsible and must have
 27 professional supervision. Discrimination by employers on the bases of sex,
 28 race, color, age, religion, ~~natural~~ national origin, marital status, or
 29 ~~handicap~~ disability is prohibited.

30 Generally, employment which is allowable under the federal college
 31 work study program is also allowable under the Idaho program. This applies
 32 to both on-campus and off-campus employment, except that off-campus jobs
 33 for the program must be within Idaho. Likewise, employment which is not
 34 allowable under federal regulations is not eligible under the Idaho program.

35 Opinions from federal officials as to the legitimacy of a particular job
 36 under the federal college work study program may be assumed to be applicable
 37 to the Idaho program. However, approval to use Idaho program funds for
 38 particular jobs should not be construed as permission to institutions to use
 39 federal work-study funds to employ students in such jobs.

40 The financial aid office at the institution is responsible for ensuring
 41 that disbursements are made only for work performed in accordance with
 42 the written job description, with adequate supervision, and with proper
 43 documentation for the hours worked.

44 SECTION 19. That Section 33-4604, Idaho Code, be, and the same is hereby
 45 amended to read as follows:

46 33-4604. DEFINITIONS. As used in this chapter:

1 (1) "At-risk person" means any Idaho resident who meets three (3) or
2 more of the following five (5) criteria:

3 (a) Is a potential first-generation college student;

4 (b) Is ~~handicapped~~ an individual with a disability as defined in
5 ~~section 504 of the rehabilitation act,~~ 29 U.S.C. section ~~79405;~~ 9405;

6 (c) Is a migrant farmworker or other seasonal farmworker or a dependent
7 of a migrant farmworker or other seasonal farmworker;

8 (d) Is a minority person as defined in this chapter; or

9 (e) Has financial need as defined in this chapter.

10 (2) "Board" means the state board of education and the board of regents
11 of the university of Idaho.

12 (3) "Eligible student" means any graduate of an accredited Idaho
13 secondary school who is an at-risk person as defined in this chapter and
14 who declares his intention to matriculate in an eligible postsecondary
15 institution in the state of Idaho during the education year immediately
16 following application for an award under this program.

17 (4) "Farmwork" means any agricultural activity, performed for either
18 wages or personal subsistence, on a farm, ranch or similar establishment.

19 (5) "Financial need" means the extent of a person's inability to meet
20 the institutionally defined cost of education at an eligible postsecondary
21 institution through parent, family and/or personal resources as determined
22 under rules to be established by the state board of education.

23 (6) "Migrant farmworker" means a seasonal farmworker whose employment
24 required travel that precluded the farmworker from returning to his
25 permanent place of residence within the same day.

26 (7) "Minority person" means any Idaho resident who is a member of an
27 ethnic group whose members historically have participated in postsecondary
28 education at a rate lower than their occurrence in the population of the
29 United States including, but not limited to, persons of native American,
30 ~~Afro-American~~ African-American, and Hispanic-American descent.

31 (8) "Potential first-generation college student" means a person
32 neither of whose parents received a bachelor's degree.

33 (9) "Seasonal farmworker" means a person who, within the past
34 twenty-four (24) months, was employed for at least seventy-five (75) days
35 in farmwork, and whose primary employment was in farmwork on a temporary or
36 seasonal basis (that is, not as a constant year-round activity).

37 All terms not specifically defined in this chapter shall be defined as in
38 sections 33-4303 through 33-4315, Idaho Code, governing the state of Idaho
39 scholarship program.

40 SECTION 20. That Section 34-1108, Idaho Code, be, and the same is hereby
41 amended to read as follows:

42 34-1108. ASSISTANCE TO VOTER. (1) If any registered elector is unable,
43 due to physical ~~disability~~ or other ~~handicap~~ disability, to enter the
44 polling place, he may be handed a ballot outside the polling place but within
45 forty (40) feet thereof by one (1) of the election clerks, and in his presence
46 but in a secret manner, mark and return the same to such election officer who
47 shall proceed as provided by law to record the ballot.

48 (2) If any registered elector, who is unable by reason of physical
49 ~~disability~~ or other ~~handicap~~ disability to record his vote by personally

1 marking his ballot and who desires to vote, then and in that case such elector
 2 shall be given assistance by the person of his choice or by one (1) of the
 3 election clerks. Such clerk or selected person shall mark the ballot in
 4 the manner directed by the elector and fold it properly and present it to
 5 the elector before leaving the voting compartment or area provided for such
 6 purpose. The elector shall then present it to the judge of election in the
 7 manner provided above.

8 SECTION 21. That Section 34-2427, Idaho Code, be, and the same is hereby
 9 amended to read as follows:

10 34-2427. ~~PHYSICALLY DISABLED~~ VOTERS WITH PHYSICAL OR OTHER
 11 DISABILITY. (1) The election board clerks shall instruct electors on how
 12 to record their votes on the voting machine or vote tally system, and shall
 13 give assistance to any elector who declares that he is unable by reason of
 14 physical ~~disability~~ or other ~~handicap~~ disability to record his vote on the
 15 machine or vote tally system, and on request by the elector after he has
 16 entered the voting booth, shall give him the necessary information to enable
 17 him to record his vote.

18 (2) Any elector who, because of blindness, physical ~~disability~~ or
 19 other ~~handicap~~ disability, is unable to mark his ballot shall, upon request,
 20 receive the assistance of the election board clerks or some other person
 21 chosen by the elector in the marking thereof. Such clerks or person shall
 22 ascertain the wishes of the elector and mark his ballot in accordance
 23 therewith, and shall thereafter give no information regarding such marking.
 24 The election board judge may require a declaration of disability to be made
 25 by the elector under oath. Whenever an elector receives assistance in this
 26 manner, a clerk shall make a notation thereof in the combination election
 27 record and poll book following the name of the elector.

28 (3) If any elector, after entering the voting booth, asks for
 29 information regarding the operation of the voting machine or marking device,
 30 the election board clerks shall give him the necessary information.

31 SECTION 22. That Section 38-1601, Idaho Code, be, and the same is hereby
 32 amended to read as follows:

33 38-1601. INTERSTATE INMATE FIREFIGHTER COMPACT. The "Interstate
 34 Inmate Firefighter Compact" is hereby enacted into law and entered into
 35 by this state with any other states legally joining therein in the form
 36 substantially as follows:

37 INTERSTATE FOREST FIRE SUPPRESSION COMPACT

38 ARTICLE I--Purpose and Policy

39 The purpose of this compact is to provide for the development and
 40 execution of programs to facilitate the use of offenders in the forest fire
 41 suppression efforts of the party states for the ultimate protection of life,
 42 property and natural resources in the party states. The purpose of this
 43 compact is also, in emergent situations, to allow a sending state to cross
 44 state lines with an inmate when, due to weather or road conditions, it is

1 necessary to cross state lines to facilitate the transport of an inmate.

2 ARTICLE II--Definitions

3 As used in this compact, unless the context clearly requires otherwise:

4 (1) "Fire suppression unit" means a group of inmates selected by
5 the sending states, corrections personnel, and any other persons deemed
6 necessary for the transportation, supervision, care, security and
7 discipline of inmates to be used in forest fire suppression efforts in the
8 receiving state.

9 (2) "Forest fire" means any fire burning in any land designated by a
10 party state or federal land management agencies as forest land.

11 (3) "Inmate" means a male or female offender who is under sentence to or
12 confined in a prison or other correctional institution.

13 (4) "Institution" means any prison, reformatory, honor camp, or other
14 correctional facility, except facilities for ~~the people with mentally~~
15 illness or mentally handicapped intellectual disabilities, in which inmates
16 may lawfully be confined.

17 (5) "Receiving state" means a state party to this compact to which a
18 fire suppression unit is traveling.

19 (6) "Sending state" means a state party to this compact from which a
20 fire suppression unit is traveling.

21 ARTICLE III--Contracts

22 (1) Each party state may make one or more contracts with any one or more
23 of the other party states for the assistance of one or more fire suppression
24 units in forest fire suppression efforts. Any such contract shall provide,
25 for matters as may be necessary and appropriate, to fix the obligations,
26 responsibilities and rights of the sending and receiving state.

27 (2) The terms and provisions of this compact shall be part of any
28 contract entered into by the authority of, or pursuant to, this compact.
29 Nothing in any such contract may be inconsistent with this compact.

30 ARTICLE IV--Procedures and Rights

31 (1) Each party state shall appoint a liaison for the coordination and
32 deployment of the fire suppression units of each party state.

33 (2) Whenever the duly constituted judicial or administrative
34 authorities in a state party to this compact, that has entered into a
35 contract pursuant to this compact, decides that the assistance of a fire
36 suppression unit of a party state is required for forest fire suppression
37 efforts, such authorities may request the assistance of one or more fire
38 suppression units of any state party to this compact through an appointed
39 liaison.

40 (3) Inmates who are members of a fire suppression unit shall at all
41 times be subject to the jurisdiction of the sending state, and at all times
42 shall be under the ultimate custody of corrections officers duly accredited
43 by the sending state.

1 (4) The receiving state shall make adequate arrangements for the
2 confinement of inmates who are members of a fire suppression unit of a
3 sending state in the event corrections officers duly accredited by the
4 sending state make a discretionary determination that an inmate requires
5 institutional confinement.

6 (5) Cooperative efforts shall be made by corrections officers
7 and personnel of the receiving state, located at a fire camp, with the
8 corrections officers and other personnel of the sending state in the
9 establishment and maintenance of fire suppression unit base camps.

10 (6) All inmates who are members of a fire suppression unit of a sending
11 state shall be cared for and treated equally with such similar inmates of
12 the receiving state, as may be members of a fire suppression unit of the
13 receiving state.

14 (7) Further, in emergent situations, a sending state shall be granted
15 authority and all the protections of any compact under this chapter to cross
16 state lines with an inmate when, due to weather or road conditions, it is
17 necessary to facilitate the transport of an inmate.

18 ARTICLE V--Acts Not Reviewable in Receiving State; Extradition

19 (1) If, while located within the territory of a receiving state, there
20 occurs against the inmate within such state any criminal charge or if the
21 inmate is suspected of committing, within such state a criminal offense,
22 the inmate shall not be returned without the consent of the receiving state
23 until discharged from prosecution or other form of proceeding, imprisonment
24 or detention for such offense. The duly accredited officers of the sending
25 state shall be permitted to transport inmates pursuant to this compact
26 through any and all states party to this compact without interference.

27 (2) An inmate member of a fire suppression unit of the sending state
28 who is deemed to have escaped by a duly accredited corrections officer of a
29 sending state shall be under the jurisdiction of both the sending state and
30 the receiving state. Nothing contained in any compact shall be construed to
31 prevent or affect the activities of officers and guards of any jurisdiction
32 directed toward the apprehension and return of an escapee.

33 ARTICLE VI--Entry into Force

34 This compact shall enter into force and become effective and binding
35 upon the states so acting when it has been enacted into law by Idaho and any
36 other state.

37 ARTICLE VII--Withdrawal and Termination

38 This compact shall continue in force and remain binding upon a party
39 state until it has enacted a statute repealing the same and providing for
40 the sending of formal written notice of withdrawal from the compact to the
41 appropriate officials of all other party states.

42 ARTICLE VIII--Other Arrangements Unaffected

1 capacity, counseling a child in a religious context, and providing no child
2 care associated with the advice; (e) the occasional or irregular care of
3 a neighbor's, relative's or friend's child or children by a person not
4 ordinarily engaged in child care.

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

7 (a) Foster homes;

8 (b) Residential schools;

9 (c) Children's camps.

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

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

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

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

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

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

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

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

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

40 (16) "Juvenile detention" is as defined in section 20-502(6), Idaho
41 Code, of the juvenile corrections act.

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

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

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

49 (20) "Representative" means an employee of the state department of
50 health and welfare.

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

4 (22) "Residential school" means a residential facility for children
 5 which:

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

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

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

16 (d) Is not:

17 (i) A college or university; or

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

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

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

25 SECTION 24. That Section 39-1204, Idaho Code, be, and the same is hereby
 26 amended to read as follows:

27 39-1204. FORM FOR DISCLOSURE REPORT. (1) The department shall design
 28 a form for the initial disclosure report which shall contain only the
 29 following information:

30 (a) The name, address and telephone number(s) for each children's
 31 agency or children's institution.

32 (b) The name(s), address and telephone number(s) of the individual(s)
 33 in charge at each children's agency or children's institution.

34 (c) The number of children that can be accommodated for child care at
 35 each children's institution and a description of such accommodations.

36 (d) Whether and how the children's institution seeks, receives or
 37 enrolls students for treatment of special needs such as substance
 38 abuse, mental illness, emotional disturbance, developmental
 39 disability, ~~mental retardation~~ intellectual disability, or students
 40 who have been identified by the judicial system as requiring treatment,
 41 therapy, rehabilitation or supervision.

42 (e) A complete description of the child care services to be provided at
 43 each children's institution.

44 (f) Whether and how the children's institution expects to receive
 45 payment, including payment from health insurance carriers, for
 46 identified treatment needs such as substance abuse, mental illness,
 47 emotional disturbance, developmental disability, or ~~mental~~
 48 ~~retardation~~ intellectual disability.

1 (g) Whether and how the children's institution represents to the payor
 2 of the child care services provided by the children's institution that
 3 such payment may qualify for health insurance reimbursement by the
 4 payor's carrier or may qualify for tax benefits relating to medical
 5 services.

6 (h) A description of the educational programs provided at each
 7 children's institution and their accreditation status.

8 (2) The department shall design a form for the annual update disclosure
 9 report which shall reference the information provided in the initial
 10 disclosure report and shall request identification of any changes in the
 11 information provided on the initial report or the previous annual update
 12 disclosure report.

13 SECTION 25. That Section 39-1301, Idaho Code, be, and the same is hereby
 14 amended to read as follows:

15 39-1301. DEFINITIONS. For purposes of this chapter the following
 16 definitions will apply:

17 (a) "Hospital" means a facility which:

18 (1) Is primarily engaged in providing, by or under the supervision of
 19 physicians,

20 (a) concentrated medical and nursing care on a twenty-four (24)
 21 hour basis to inpatients experiencing acute illness; and

22 (b) diagnostic and therapeutic services for medical diagnosis
 23 and treatment, psychiatric diagnosis and treatment, and care of
 24 injured, disabled, or sick persons; and

25 (c) rehabilitation services for injured, disabled, or sick
 26 persons; and

27 (d) obstetrical care.

28 (2) Provides for care of two (2) or more individuals for twenty-four
 29 (24) or more consecutive hours.

30 (3) Is staffed to provide professional nursing care on a twenty-four
 31 (24) hour basis.

32 (b) "Nursing facility" (nursing home) means a facility whose design and
 33 function shall provide area, space and equipment to meet the health needs
 34 of two (2) or more individuals who, at a minimum, require inpatient care
 35 and services for twenty-four (24) or more consecutive hours for unstable
 36 chronic health problems requiring daily professional nursing supervision
 37 and licensed nursing care on a twenty-four (24) hour basis, restorative,
 38 rehabilitative care, and assistance in meeting daily living needs. Medical
 39 supervision is necessary on a regular, but not daily, basis.

40 (c) "Intermediate care facility for ~~the mentally retarded~~ people
 41 with intellectual disabilities (ICFMR/ID)" means a nonnursing home
 42 facility, designed and operated to meet the unique educational, training,
 43 habilitative and medical needs of the developmentally disabled through the
 44 provision of active treatment.

45 (d) "Person" means any individual, firm, partnership, corporation,
 46 company, association, or joint stock association, and the legal successor
 47 thereof.

1 (e) "Government unit" means the state, or any county, municipality, or
 2 other political subdivision, or any department, division, board or other
 3 agency thereof.

4 (f) "Licensing agency" means the department of health and welfare.

5 (g) "Board" means the board of health and welfare.

6 (h) "Physician" means an individual licensed to practice medicine and
 7 surgery by the Idaho state board of medicine or the Idaho state board of
 8 podiatry.

9 (i) "Authorized provider" means an individual who is a nurse
 10 practitioner or clinical nurse specialist, licensed to practice in Idaho in
 11 accordance with the Idaho nurse practice act; or a physician's assistant,
 12 licensed by the Idaho state board of medicine.

13 SECTION 26. That Section 39-1402, Idaho Code, be, and the same is hereby
 14 amended to read as follows:

15 39-1402. DEFINITIONS. As used in this act:

16 (a) "Agency" means the department of health and welfare;

17 (b) "The federal act" shall mean, when applicable, either (1) Public
 18 Law 725 of the 79th Congress, approved August 13, 1946, entitled the Hospital
 19 Survey and Construction Act and amendments thereto or (2) Mental Retardation
 20 Facilities and Community Mental Health Centers Construction Act of 1963,
 21 Public Law 88-164, and amendments thereto or (3) Public Law 91-517 of the
 22 91st Congress, and amendments thereto;

23 (c) "The surgeon general" means the surgeon general of the public
 24 health service of the United States;

25 (d) "Health facilities" shall mean any of the following:

26 (1) "Hospital" means a place devoted primarily to the maintenance
 27 and operation of facilities for the diagnosis, treatment or care for
 28 not less than twenty-four (24) hours in any week of two (2) or more
 29 nonrelated individuals suffering from illness, disease, injury,
 30 deformity, or requiring care because of old age, or a place devoted
 31 primarily to providing for not less than twenty-four (24) hours in
 32 any week of obstetrical or other medical or nursing care for two (2)
 33 or more nonrelated individuals. The term hospital includes public
 34 health centers in general, tuberculosis, mental, chronic disease and
 35 other types of hospitals, and related facilities, such as laboratories,
 36 outpatient departments, nurses' home and training facilities, and
 37 central service facilities operated in connection with hospitals;

38 (2) A facility for the provision of public health services, including
 39 related facilities such as laboratories, clinics, and administrative
 40 offices operated in connection with said facility;

41 (3) A facility specially designed for the diagnosis, treatment,
 42 education, training, or custodial care of ~~the mentally retarded people~~
 43 with intellectual disabilities, including facilities for training
 44 specialists and sheltered workshops for ~~the mentally retarded people~~
 45 with intellectual disabilities, but only if such workshops are part of
 46 facilities which provide or will provide comprehensive services for ~~the~~
 47 mentally retarded people with intellectual disabilities;

48 (4) A facility providing services for the prevention or diagnosis
 49 of mental illness, or care and treatment of mentally ill patients,

1 or rehabilitation of such persons, which services are provided
 2 principally for persons residing in a particular community or
 3 communities in or near which the facility is situated or at a statewide
 4 facility;

5 (e) "The secretary" means the secretary of health, ~~education and~~
 6 ~~welfare~~ and human services of the United States, or his delegate to
 7 administer the federal act;

8 (f) "Nonprofit facility" means a facility which is owned and operated
 9 by one (1) or more nonprofit corporations or associations no part of the
 10 net earnings of which inures, or may lawfully inure, to the benefit of any
 11 private shareholder or individual.

12 SECTION 27. That Section 39-4602, Idaho Code, be, and the same is hereby
 13 amended to read as follows:

14 39-4602. PURPOSE. It is declared to be the policy of the legislature
 15 of the state of Idaho to authorize and mandate the department of health and
 16 welfare to develop and coordinate services for developmentally disabled
 17 persons through adult and child development programs and through contracts
 18 with rehabilitation facilities. The complexities of developmental
 19 disabilities require the services of many state departments as well as those
 20 of the community. It is the intent of this chapter that the department of
 21 health and welfare will cooperate with recognized agencies, organizations
 22 and departments in implementing this chapter. Services should be planned
 23 and provided as a part of a continuum. A pattern of facilities, services and
 24 eligibility should be established which is sufficiently complete to meet the
 25 needs of each developmentally disabled person regardless of age or degree of
 26 ~~handicap~~ disability, with consideration of the family.

27 SECTION 28. That Section 39-4604, Idaho Code, be, and the same is hereby
 28 amended to read as follows:

29 39-4604. DEFINITIONS. As used in this chapter:

30 (1) ~~"Department" means the Idaho department of health and welfare~~
 31 "Comprehensive developmental disability system" means a system of services
 32 including, but not limited to, the following basic services with the
 33 intention of providing alternatives to institutionalization:

34 (a) Evaluation services;

35 (b) Diagnostic services;

36 (c) Treatment services;

37 (d) Individualized developmental programs;

38 (e) Extended sheltered employment and work activities;

39 (f) Recreation services;

40 (g) Domiciliary care services;

41 (h) Special living arrangement services;

42 (i) Counseling services;

43 (j) Information and referral services;

44 (k) Follow-along services; and

45 (l) Transportation services.

46 (2) "Department" means the Idaho department of health and welfare.

1 (3) "Developmental disabilities facility" means any service or group
 2 of services which provide care to the developmentally disabled on an
 3 inpatient, outpatient, residential, clinical or other programmatic basis,
 4 including sheltered workshops and adult and child development centers.

5 (24) ~~A~~ "Developmental disability" is:

6 (a) ~~a~~ Attributable to an impairment, such as ~~mental retardation~~
 7 intellectual disability, cerebral palsy, epilepsy, autism or
 8 other condition found to be closely related to or similar to one of
 9 these impairments that requires similar treatment or services or is
 10 attributable to dyslexia resulting from such impairments;

11 (b) ~~h~~ Has continued or can be expected to continue indefinitely; and

12 (c) ~~e~~ Constitutes a substantial ~~handicap~~ limitation to such person's
 13 ability to function normally in society.

14 (5) "Habilitation" is the process of developing skills and abilities.

15 (6) "Normalization" is the process of providing services which promote
 16 a life as much as possible like that of the rest of the community, including
 17 living in the community and access to community resources.

18 (7) "Rehabilitation" is the process of improving skills or level
 19 of adjustment to increase the person's ability to maintain satisfactory
 20 independent or dependent functioning.

21 (38) ~~A~~ "Substantial handicap limitation" is:

22 (a) ~~a~~ A disability which results in substantial function limitation in
 23 three (3) or more of the following areas of major life activity:

24 (i) ~~s~~ Self-care;

25 (ii) ~~r~~ Receptive and expressive language;

26 (iii) ~~l~~ Learning;

27 (iv) ~~m~~ Mobility;

28 (v) ~~s~~ Self-direction;

29 (vi) ~~e~~ Capacity for independent living; or

30 (vii) ~~e~~ Economic self-sufficiency; and

31 (b) ~~r~~ Reflects the need for a combination and sequence of special,
 32 interdisciplinary, or generic care, treatment or other services which
 33 are:

34 (i) ~~l~~ Lifelong or extended duration, and

35 (ii) ~~i~~ Individually planned and coordinated.

36 ~~(4) "Normalization" is the process of providing services which promote~~
 37 ~~a life as much as possible like that of the rest of the community, including~~
 38 ~~living in the community and access to community resources.~~

39 ~~(5) "Habilitation" is the process of developing skills and abilities.~~

40 ~~(6) "Rehabilitation" is the process of improving skills or level~~
 41 ~~of adjustment to increase the person's ability to maintain satisfactory~~
 42 ~~independent or dependent functioning.~~

43 ~~(7) "Developmental disabilities facility" means any service or group~~
 44 ~~of services which provide care to the developmentally disabled on an~~
 45 ~~inpatient, outpatient, residential, clinical or other programmatic basis,~~
 46 ~~including sheltered workshops and adult and child development centers.~~

47 ~~(8) "Comprehensive developmental disability system" means a system~~
 48 ~~of services including, but not limited to, the following basic services~~
 49 ~~with the intention of providing alternatives to institutionalization: (a)~~
 50 ~~evaluation services; (b) diagnostic services; (c) treatment services; (d)~~

1 ~~individualized developmental programs; (e) extended sheltered employment~~
 2 ~~and work activities; (f) recreation services; (g) domiciliary care~~
 3 ~~services; (h) special living arrangements services; (i) counseling~~
 4 ~~services; (j) information and referral services; (k) follow along services;~~
 5 ~~and (l) transportation services.~~

6 SECTION 29. That Section 39-4803, Idaho Code, be, and the same is hereby
 7 amended to read as follows:

8 39-4803. IMMUNIZATION REGISTRY. (1) The department of health and
 9 welfare shall provide for the establishment of a voluntary registry of the
 10 immunization status of Idaho children against childhood diseases. The
 11 registry may be maintained and its data disclosed as set out herein to
 12 further the following purposes:

- 13 (a) To make immunizations readily available to every Idaho citizen that
- 14 desires to have their child immunized;
- 15 (b) To increase the voluntary immunization rate in Idaho to the maximum
- 16 extent possible without mandating such immunizations;
- 17 (c) To recognize and respect the rights of parents and guardians to make
- 18 health care decisions for their children;
- 19 (d) To provide for timely reminders to parents of children in the
- 20 registry.

21 (2) The name of a child or information relating to the immunization
 22 status of that child may be collected or included in the registry only
 23 upon the separate and specific written authorization of a parent, guardian
 24 or other person legally responsible for the care of the child. Such
 25 authorization may not be part of a general authorization or release. The
 26 registry may contain only the following information for each child:

- 27 (a) The child's name, address and birth date;
- 28 (b) The name and address of each parent of the child;
- 29 (c) The month, day, year and type of each immunization that has been
- 30 administered to the child;
- 31 (d) The name, address and phone number of each provider that has
- 32 administered an immunization to the child;
- 33 (e) If requested by a parent or guardian, any statement made pursuant to
- 34 subsection (4) of this section;
- 35 (f) Other information as authorized or requested by a parent or
- 36 guardian.

37 (3) The department of health and welfare may only disclose information
 38 relating to an individual child in the registry to the following upon a
 39 specific request:

- 40 (a) Employees of the health district in which the child resides or seeks
- 41 medical services;
- 42 (b) Health records staff of the school or school district in which the
- 43 child is enrolled;
- 44 (c) The operator of a licensed child care facility in which the child is
- 45 enrolled;
- 46 (d) Persons who are legally responsible for the long-term care of the
- 47 child, including operators of licensed ICF/~~MR's~~ ID's and residential or
- 48 assisted living facilities, adoptive and foster parents and a guardian
- 49 appointed pursuant to chapter 5, title 15, Idaho Code;

1 (e) Any health care provider rendering treatment to the child, and the
2 provider's agents;

3 (f) Any person possessing a lawful release, properly executed by the
4 child's parent or guardian;

5 (g) A parent of the child;

6 (h) Any hospital where the child is receiving care.

7 (4) A parent or guardian of the child shall have free and open access to
8 all information in the registry that relates to their child or themselves.
9 Upon the written request of a parent or guardian, the department of health
10 and welfare shall:

11 (a) Cause all information relating to the child to be removed from the
12 registry and any databases or files of other entities or persons to
13 which information in the database has been disclosed;

14 (b) Include in the registry the statement of a physician or parent
15 pursuant to section 39-4802(2) or 39-1118(2), Idaho Code.

16 (5) All information contained in the registry or disclosed from it is
17 confidential and may not be sold and may only be disclosed as specifically
18 authorized in this section. A person or entity to whom information is
19 disclosed from the registry may not thereafter disclose it to others. Any
20 person who discloses or authorizes disclosure of any information contained
21 in the registry, except as authorized in this section is guilty of a
22 misdemeanor and is liable for civil damages in the amount of one hundred
23 dollars (\$100) for each violation.

24 SECTION 30. That Section 39-5008, Idaho Code, be, and the same is hereby
25 amended to read as follows:

26 39-5008. DISCRIMINATION PROHIBITED. No person shall, on the ground of
27 sex, age, race, color, religion, national origin or ~~handicap~~ disability, be
28 excluded from participating in, be denied the benefits of, or be subjected
29 to discrimination under any program or activity made available under this
30 chapter.

31 SECTION 31. That Section 39-5102, Idaho Code, be, and the same is hereby
32 amended to read as follows:

33 39-5102. DEFINITIONS. As used in this chapter:

34 (1) "Department" means the Idaho department of health and welfare.

35 (2) "Developmental disability" means a chronic disability of an
36 individual which appears before the age of twenty-two (22) years of age and:

37 (a) Is attributable to an impairment, such as ~~mental retardation~~
38 intellectual disability, cerebral palsy, epilepsy, autism or a
39 condition found to be closely related to or similar to one (1) of
40 these impairments that requires similar treatment or services, or is
41 attributable to dyslexia resulting from such impairments; and

42 (b) Results in substantial functional limitations in three (3) or more
43 of the following areas of major life activity: self-care, receptive and
44 expressive language, learning, mobility, self-direction, capacity for
45 independent living, or economic self-sufficiency; and

1 (c) Reflects the need for a combination and sequence of special,
2 interdisciplinary treatment or other services which are of lifelong or
3 extended duration and individually planned and coordinated.

4 (3) "Director" means the director of the Idaho department of health and
5 welfare.

6 (4) "Family" means a group of interdependent persons residing in the
7 same household and includes an individual with a developmental disability
8 and one (1) or more of the following:

9 (a) A birth or adoptive mother or father, stepparent, brother, sister
10 or any combination; or

11 (b) Extended blood relatives, such as a grandparent, aunt, uncle,
12 nephew or niece; or

13 (c) Legal guardian.

14 The term "family" does not include paid providers of care.

15 (5) "In-home assistance application" means a written document
16 describing the needs of an individual with developmental disabilities and
17 specifying the services or supports required.

18 (56) "Institution" means any public or private residential facility
19 which is licensed in the state of Idaho for the purpose of providing care and
20 treatment for individuals with developmental disabilities.

21 ~~(6) "Family" means a group of interdependent persons residing in the~~
22 ~~same household and includes an individual with a developmental disability~~
23 ~~and one (1) or more of the following:~~

24 ~~(a) A birth or adoptive mother or father, stepparent, brother, sister~~
25 ~~or any combination; or~~

26 ~~(b) Extended blood relatives, such as a grandparent, aunt, uncle,~~
27 ~~nephew or niece; or~~

28 ~~(c) Legal guardian.~~

29 ~~The term "family" does not include paid providers of care.~~

30 SECTION 32. That Section 40-1335, Idaho Code, be, and the same is hereby
31 amended to read as follows:

32 40-1335. STANDARDS FOR CURB CONSTRUCTION -- CURB RAMPS FOR ~~THE~~ PEOPLE
33 WITH PHYSICALLY HANDICAPPED DISABILITIES. (1) The standard for construction
34 of curbs on each side of any city highway, or any connecting highway for which
35 curbs and sidewalks have been prescribed by the appropriate governing body,
36 shall require curb cuts or ramps at locations which allow a crossing movement
37 at intersections. Each curb cut or ramp shall be constructed to allow
38 reasonable access to the crosswalk for people with physically handicapped
39 persons disabilities.

40 (2) Standards set for curb cuts and ramps under this section shall apply
41 to all new curb construction and to all replacement curbs constructed at any
42 point in a block which gives reasonable access to a crosswalk.

43 SECTION 33. That Section 41-2139, Idaho Code, be, and the same is hereby
44 amended to read as follows:

45 41-2139. REQUIRED PROVISIONS -- COVERAGE OF DEPENDENT CHILD. There
46 shall be a provision as follows: a policy delivered or issued for delivery in
47 this state more than one hundred twenty (120) days after the effective date

1 of this act under which coverage of a dependent of an insured terminates at
 2 a specified age shall, with respect to an unmarried child who is incapable
 3 of self-sustaining employment by reason of ~~mental retardation~~ intellectual
 4 disability or physical ~~handicap~~ disability and who became so incapable
 5 prior to attainment of the limiting age and who is chiefly dependent upon
 6 such insured for support and maintenance, not so terminate while the policy
 7 remains in force and the dependent remains in such condition, if the insured
 8 has within thirty-one (31) days of such dependent's attainment of the
 9 limiting age submitted proof of such dependent's incapacity as described
 10 herein. The insurer may require at reasonable intervals during the two (2)
 11 years following the child's attainment of the limiting age subsequent proof
 12 of the child's disability and dependency. After the two (2) year period,
 13 such subsequent proof may not be required more than once each year.

14 SECTION 34. That Section 41-2203, Idaho Code, be, and the same is hereby
 15 amended to read as follows:

16 41-2203. REQUIRED PROVISIONS IN GROUP POLICIES. Each such group
 17 disability insurance policy shall contain in substance the following
 18 provisions:

19 (1) A provision that, in the absence of fraud, all statements made by
 20 applicants or the ~~policy holders~~ policyholders or by an insured person shall
 21 be deemed representations and not warranties, and that no statement made
 22 for the purpose of effecting insurance shall void such insurance or reduce
 23 benefits unless contained in a written instrument signed by the ~~policy~~
 24 ~~holder~~ policyholder or the insured person, a copy of which has been furnished
 25 to such ~~policy holder~~ policyholder or to such person or his beneficiary.

26 (2) A provision that the insurer will furnish to the ~~policy holder~~
 27 policyholder for delivery to each employee or member of the insured group,
 28 a statement in summary form of the essential features of the insurance
 29 coverage of such employee or member and to whom benefits thereunder
 30 are payable. If dependents are included in the coverage, only one (1)
 31 certificate need be issued for each family unit.

32 (3) A provision that to the group originally insured may be added from
 33 time to time eligible new employees or members or dependents, as the case may
 34 be, in accordance with the terms of the policy.

35 (4) A provision that, a policy delivered or issued for delivery in
 36 this state more than one hundred twenty (120) days after the effective date
 37 of this act under which coverage of a dependent of a member of an insured
 38 group terminates at a specified age shall, with respect to an unmarried
 39 child who is incapable of self-sustaining employment by reason of ~~mental~~
 40 ~~retardation~~ intellectual disability or physical ~~handicap~~ disability and
 41 who became so incapable prior to attainment of the limiting age and who
 42 is chiefly dependent upon such member for support and maintenance, not so
 43 terminate while the policy remains in force and the dependent remains in such
 44 condition, if the member has within thirty-one (31) days of such dependent's
 45 attainment of the limiting age submitted proof of such dependent's
 46 incapacity as described herein. The insurer may require at reasonable
 47 intervals during the two (2) years following the child's attainment of the
 48 limiting age subsequent proof of the child's disability and dependency.

1 After the two (2) year period, such subsequent proof may not be required more
2 than once each year.

3 SECTION 35. That Section 41-3436, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 41-3436. DEPENDENT'S COVERAGE -- DEPENDENT'S TERMINATION OF
6 COVERAGE, DISABILITY AND DEPENDENCY PROOF AND APPLICATION. (1) Any new
7 or renewing subscriber contract delivered or issued for delivery in this
8 state shall provide that an unmarried child under the age of twenty-five (25)
9 years and who receives more than one-half (1/2) of his financial support
10 from the parent shall be permitted to remain on the parent's or parents'
11 contract. Further, any unmarried child of any age who is medically certified
12 as disabled and financially dependent upon the parent is permitted to remain
13 on the parent's or parents' contract.

14 (2) There shall be a provision that a subscriber's contract delivered
15 or issued for delivery in this state more than one hundred twenty (120) days
16 after the effective date of this act under which coverage of a dependent
17 of a subscriber terminates at a specified age shall, with respect to an
18 unmarried child who is incapable of self-sustaining employment by reason of
19 ~~mental retardation~~ intellectual disability or physical ~~handicap~~ disability
20 and who became so incapable prior to attainment of the limiting age and
21 who is chiefly dependent upon such member for support and maintenance,
22 not to terminate while the contract remains in force and the dependent
23 remains in such condition, if the member has within thirty-one (31) days
24 of such dependent's attainment of the limiting age submitted proof of such
25 dependent's incapacity as described herein. The service corporation may
26 require at reasonable intervals during the two (2) years following the
27 child's attainment of the limiting age subsequent proof of the child's
28 disability and dependency. After the two (2) year period, such subsequent
29 proof may not be required more than once each year.

30 SECTION 36. That Section 49-114, Idaho Code, be, and the same is hereby
31 amended to read as follows:

32 49-114. DEFINITIONS -- M. (1) "Major component part" means a rear
33 clip, cowl, frame or inner structure forward of the cowl, body, cab, front
34 end assembly, front clip or such other part which is critical to the safety of
35 the vehicle.

36 (2) "Manifest" means a form used for identifying the quantity,
37 composition, origin, routing, waste or material identification code
38 and destination of hazardous material or hazardous waste during any
39 transportation within, through, or to any destination in this state.

40 (3) "Manufactured home." (See section 39-4105, Idaho Code)

41 (4) "Manufacturer" means every person engaged in the business of
42 constructing or assembling vehicles of a type required to be registered at
43 an established place of business in this state. The term, for purposes of
44 sections 49-1613 through 49-1615, 49-1617, 49-1622 and 49-1623, Idaho Code,
45 shall include a distributor and other factory representatives.

1 (5) "Manufacturer's year designation" means the model year designated
2 by the vehicle manufacturer, and not the year in which the vehicle is, in
3 fact, manufactured.

4 (6) "Maximum gross weight" means the scale weight of a vehicle,
5 equipped for operation, to which shall be added the maximum load to be
6 carried as declared by the owner in making application for registration.
7 When a vehicle against which a registration fee is assessed is a combination
8 of vehicles, the term "maximum gross weight" means the combined maximum
9 gross weights of all vehicles in the combination.

10 (7) "Metal tire." (See "Tires," section 49-121, Idaho Code)

11 (8) "Mileage" means actual distance that a vehicle has traveled.

12 (9) "Moped" means a limited-speed motor-driven cycle having:

13 (a) Both motorized and pedal propulsion that is not capable of
14 propelling the vehicle at a speed in excess of thirty (30) miles per
15 hour on level ground, whether two (2) or three (3) wheels are in contact
16 with the ground during operation. If an internal combustion engine is
17 used, the displacement shall not exceed fifty (50) cubic centimeters
18 and the moped shall have a power drive system that functions directly or
19 automatically without clutching or shifting by the operator after the
20 drive system is engaged; or

21 (b) Two (2) wheels or three (3) wheels with no pedals, which is powered
22 solely by electrical energy, has an automatic transmission, a motor
23 which produces less than two (2) gross brake horsepower, is capable of
24 propelling the device at a maximum speed of not more than thirty (30)
25 miles per hour on level ground and as originally manufactured, meets
26 federal motor vehicle safety standards for motor-driven cycles. A
27 moped is not required to be titled and no motorcycle endorsement is
28 required for its operator.

29 (10) "Motorbike" means a vehicle as defined in section 67-7101, Idaho
30 Code. Such vehicle shall be titled and may be approved for motorcycle
31 registration pursuant to section 49-402, Idaho Code, upon certification by
32 the owner of the installation and use of conversion components that make the
33 motorbike compliant with federal motor vehicle safety standards.

34 (11) "Motorcycle" means every motor vehicle having a seat or saddle
35 for the use of the rider and designed to travel on not more than three (3)
36 wheels in contact with the ground that meets the federal motor vehicle safety
37 standards as originally designed, and includes a converted motorbike, but
38 does not include a motor-driven cycle, a motorbike, a tractor or a moped.

39 (12) "Motor carrier" means an individual, partnership, corporation or
40 other legal entity engaged in the transportation by motor vehicle of persons
41 or property in the furtherance of a business or for hire.

42 (13) "Motor-driven cycle" means a cycle with a motor that produces
43 five (5) brake horsepower or less as originally manufactured that meets
44 federal motor vehicle safety standards as originally designed, and does not
45 include mopeds. Such vehicle shall be titled and a motorcycle endorsement
46 is required for its operation.

47 (14) "Motor home" means a vehicular unit designed to provide temporary
48 living quarters, built into an integral part or permanently attached
49 to a self-propelled motor vehicle chassis. The vehicle must contain
50 permanently installed independent life support systems which meet the

1 National Fire Protection Association (NFPA) 1192 Standard on Recreational
 2 Vehicles, and provide at least four (4) of the following facilities:
 3 cooking, refrigeration or icebox, self-contained toilet, heating and/or air
 4 conditioning, a potable water supply system, including a faucet and sink,
 5 separate 110-125 volt electrical power supply and/or LP-gas supply.

6 (15) "Motorized wheelchair" means a motor vehicle with a speed not in
 7 excess of eight (8) miles per hour, designed for and used by a ~~handicapped~~
 8 person with a disability.

9 (16) "Motor number." (See "Identifying number," section 49-110, Idaho
 10 Code)

11 (17) "Motor vehicle." (See "Vehicle," section 49-123, Idaho Code)

12 (18) "Motor vehicle liability policy" means an owner's or operator's
 13 policy of liability insurance, certified as provided in section 49-1210,
 14 Idaho Code, as proof of financial responsibility, and issued by an insurance
 15 carrier duly authorized to transact business in this state, to or for the
 16 benefit of the person named therein as insured.

17 (19) "Motor vehicle record" means any record that pertains to a motor
 18 vehicle registration, motor vehicle title or identification documents or
 19 other similar credentials issued by the department or other state or local
 20 agency.

21 SECTION 37. That Section 50-460, Idaho Code, be, and the same is hereby
 22 amended to read as follows:

23 50-460. ASSISTANCE TO VOTER. If any registered elector, who is unable
 24 by reason of physical ~~disability~~ or other ~~handicap~~ disability to record his
 25 vote by personally marking his ballot and who desires to vote, then and in
 26 that case such elector shall be assisted by the person of his choice or by
 27 one (1) of the election clerks. Such clerk or selected person shall mark
 28 the ballot in the manner directed by the elector and fold it properly and
 29 present it to the elector before leaving the voting compartment or area
 30 provided for such purpose. The elector shall then present the ballot to the
 31 judge of election in the manner provided above. If any registered elector
 32 is unable, due to physical ~~disability~~ or other ~~handicap~~ disability, to enter
 33 the polling place, he may be handed a ballot outside the polling place but
 34 within forty (40) feet thereof by one (1) of the election clerks, and in his
 35 presence but in a secret manner, mark and return the same to such election
 36 officer who shall proceed as provided by law to record the ballot.

37 SECTION 38. That Section 54-903, Idaho Code, be, and the same is hereby
 38 amended to read as follows:

39 54-903. GENERAL DEFINITIONS. As used in this chapter:

40 (1) "Association" means the Idaho state dental association and the
 41 Idaho dental hygienists' association.

42 (2) "Board" means the state board of dentistry.

43 (3) "Conviction" or "convicted" means a finding of guilt by a judge
 44 or jury, an entry of a guilty plea by a defendant and its acceptance by
 45 the court, a forfeiture of a bail bond or collateral deposited to secure a
 46 defendant's appearance, a judgment of conviction, a suspended sentence,
 47 probation, or a withheld judgment.

1 (4) "Dental assistant" is a person who need not be licensed under
2 this chapter, but who is regularly employed by a dentist at his office,
3 who works under the dentist's supervision, and is adequately trained and
4 qualified according to standards established by the board to perform the
5 dental services permitted to be performed by assistants by this chapter and
6 applicable rules of the board.

7 (5) "Dental hygienist" is a person both qualified and licensed by the
8 laws of Idaho to practice dental hygiene.

9 (6) "Dental specialist" is a dentist who limits his practice to a
10 specialty recognized by the American dental association, who has graduated
11 from a board-approved postgraduate program in his specialty and is a person
12 both qualified and licensed by the laws of Idaho to practice a dental
13 specialty.

14 (7) "Dentist" is a person both qualified and licensed by the laws of
15 Idaho to practice dentistry.

16 (8) "Direct supervision" is supervision of a dental assistant or dental
17 hygienist requiring that a dentist diagnose the condition to be treated,
18 a dentist authorize the procedure to be performed, a dentist remain in the
19 dental office while the procedure is performed, and that before dismissal of
20 the patient, a dentist approves the work performed by the dental assistant
21 or dental hygienist.

22 (9) "Extended access oral health care program" means and includes
23 dental and dental hygiene treatment and services provided as part of a
24 program conducted by or through a local, county, state or federal agency,
25 hospital, long-term care facility, public health district, dental or dental
26 hygiene school, tribal clinic, or migrant health center; or such other oral
27 health care program approved on an annual basis by the board and conducted
28 by or through a public or private entity, recognized under section 501(c)(3)
29 of the federal Internal Revenue Code, to provide free or reduced fee dental
30 and dental hygiene services to persons who, due to age, infirmity, ~~handicap,~~
31 indigence or disability, are unable to receive regular dental and dental
32 hygiene treatment in a private office.

33 (10) "General supervision" is supervision of a dental assistant or
34 dental hygienist requiring that a dentist authorize the procedure which
35 is carried out, but not requiring that a dentist be in the office when the
36 authorized procedure is performed.

37 (11) "Indirect supervision" is supervision of a dental assistant or
38 dental hygienist requiring that a dentist authorize a procedure and that
39 a dentist be in the dental office while the procedure is performed by the
40 assistant or hygienist.

41 SECTION 39. That Section 54-935, Idaho Code, be, and the same is hereby
42 amended to read as follows:

43 54-935. VOLUNTEER'S LICENSE -- QUALIFICATIONS -- PERMISSIBLE
44 PRACTICE -- IMMUNITY FROM LIABILITY. (1) Upon application and
45 qualification, the board may issue, without examination, a volunteer's
46 license to a dentist or dental hygienist who is retired from the active
47 practice of dentistry or dental hygiene to enable the retired dentist or
48 dental hygienist to provide dental or dental hygiene services at specified

1 locations to persons who, due to age, infirmity, ~~handicap~~, indigence or
2 disability, are unable to receive regular dental treatment.

3 (2) For purposes of this section, a dentist or dental hygienist
4 previously holding a dental or dental hygiene license with active status
5 in Idaho or another state shall be considered to be retired if, prior to the
6 date of application for a volunteer's license, he has surrendered or allowed
7 his license with active status to expire with the intention of ceasing to
8 actively practice as a dentist or dental hygienist for remuneration, he
9 has converted his license with active status to a license with inactive
10 status with the intention of ceasing to actively practice as a dentist or
11 dental hygienist for remuneration, or he has converted his license with
12 active or inactive status to a license with retirement or similar status that
13 proscribed the active practice of dentistry or dental hygiene. A dentist or
14 dental hygienist whose dental or dental hygiene license had been restricted,
15 suspended, revoked, surrendered, resigned, converted, or allowed to lapse
16 or expire as the result of disciplinary action or in lieu of disciplinary
17 action being taken shall not be eligible for a volunteer's license.

18 (3) An application for a volunteer's license shall include, but not be
19 limited to, the following:

20 (a) Verification of graduation from a dental or dental hygiene school
21 accredited by the Commission on Dental Accreditation of the American
22 Dental Association as of the date of the applicant's graduation;

23 (b) Verification from each state board in which the applicant was
24 licensed that the applicant maintained his dental or dental hygiene
25 license in good standing without disciplinary action that restricted
26 the applicant's license or resulted in the applicant's license being
27 placed on probation, suspended, revoked or being surrendered, resigned
28 or otherwise allowed to lapse or expire in lieu of disciplinary action;

29 (c) Verification that the applicant held a dental or dental hygiene
30 license in good standing in Idaho or another state as of the date upon
31 which the dentist or dental hygienist became retired;

32 (d) Verification that the applicant held an active status dental or
33 dental hygiene license in good standing in Idaho or another state within
34 five (5) years of the date of application for a volunteer's license,
35 provided, that the board may waive the five (5) year requirement in
36 the event that the applicant demonstrates he possesses the knowledge
37 and skills requisite to the practice of dentistry or dental hygiene by
38 successfully completing such examinations as are required by the board;
39 and

40 (e) A notarized statement from the applicant on a form prescribed by the
41 board, that the applicant will not provide any dental or dental hygiene
42 services to any person or at any location other than as permitted by
43 this section and that the applicant will not accept any amount or form
44 of remuneration, other than as reimbursement for the amount of actual
45 expenses incurred as a volunteer dentist or dental hygienist, for any
46 dental or dental hygiene services provided under the authority of a
47 volunteer's license.

48 (4) For purposes of this section, the specified locations at which
49 a dentist or dental hygienist holding a volunteer's license may provide
50 dental or dental hygiene services shall be limited to the premises or

1 sites of extended access oral health care programs. The dental services
 2 provided at an extended access oral health care program by a dentist holding
 3 a volunteer's license shall not require or include the administration of
 4 general anesthesia or conscious sedation to a patient unless otherwise
 5 specifically approved in advance by the board.

6 (5) A volunteer's license shall be valid for that period specified for
 7 dentists and dental hygienists in section 54-920, Idaho Code, and may be
 8 renewed upon application of the licensee unless the license has been revoked
 9 in accordance with this section. The board shall maintain a register of all
 10 dentists and dental hygienists who hold a volunteer's license. The board
 11 shall not charge an application or licensing fee for issuing or renewing a
 12 volunteer's license. A volunteer's license cannot be converted to a license
 13 with active, inactive, provisional or special status.

14 (6) The board may revoke a volunteer's license upon receiving proof
 15 satisfactory to the board that the holder of a volunteer's license provided
 16 dental or dental hygiene services outside the permissible scope of the
 17 volunteer's license or that grounds existed for enforcement or disciplinary
 18 action against the holder of a volunteer's license under other sections of
 19 this chapter or the administrative rules promulgated under this chapter.

20 (7) When practicing dentistry or dental hygiene within the permissible
 21 scope of a volunteer's license, the holder of a volunteer's license issued
 22 pursuant to this section shall be immune from liability for any civil action
 23 arising out of the provision of volunteer dental or dental hygiene services.
 24 This section does not provide or extend immunity to a holder of a volunteer's
 25 license for any acts or omissions constituting negligence.

26 SECTION 40. That Section 54-1841, Idaho Code, be, and the same is hereby
 27 amended to read as follows:

28 54-1841. VOLUNTEER'S LICENSE -- QUALIFICATIONS. (1) Upon application
 29 and qualification, the board may issue, without examination, a volunteer's
 30 license to a physician who is retired from the active practice of medicine
 31 and surgery or osteopathic medicine and surgery to enable the retired
 32 physician to provide medical services to persons who, due to age, infirmity,
 33 ~~handicap~~, indigence or disability, are unable to receive regular medical
 34 treatment.

35 (2) (a) For purposes of this section, a physician previously holding
 36 a license to practice medicine and surgery, osteopathic medicine
 37 and surgery or osteopathic medicine with active status in Idaho or
 38 another state shall be considered to be retired if, prior to the date of
 39 application for a volunteer's license:

40 (i) He has surrendered or allowed his license with active status
 41 to expire with the intention of ceasing to actively practice as a
 42 physician for remuneration;

43 (ii) He has converted his license with active status to a license
 44 with inactive status with the intention of ceasing to actively
 45 practice as a physician for remuneration; or

46 (iii) He has converted his license with active or inactive status
 47 to a license with retirement or similar status that proscribed the
 48 active practice of medicine and surgery or osteopathic medicine
 49 and surgery.

1 (b) A physician whose license had been restricted, suspended, revoked,
2 surrendered, resigned, converted, or allowed to lapse or expire as the
3 result of disciplinary action or in lieu of disciplinary action being
4 taken shall not be eligible for a volunteer's license.

5 (3) An application for a volunteer's license shall include, but not be
6 limited to, the following:

7 (a) Verification of graduation from an acceptable school of medicine or
8 an acceptable osteopathic school of medicine;

9 (b) Verification from each state board in which the applicant was
10 licensed that the applicant maintained his license in good standing
11 without disciplinary action that restricted the applicant's license
12 or resulted in the applicant's license being placed on probation,
13 suspended, revoked or being surrendered, resigned or otherwise allowed
14 to lapse or expire in lieu of disciplinary action;

15 (c) Verification that the applicant held a license in good standing in
16 Idaho or another state as of the date upon which the physician became
17 retired;

18 (d) Verification that the applicant held an active status license in
19 good standing in Idaho or another state within five (5) years of the
20 date of application for a volunteer's license, provided, that the board
21 may waive the five (5) year requirement in the event that the applicant
22 demonstrates that he possesses the knowledge and skills requisite
23 to the practice of medicine and surgery or osteopathic medicine and
24 surgery by successfully completing such examinations as are required by
25 the board; and

26 (e) A notarized statement from the applicant on a form prescribed by
27 the board, that the applicant will not provide any physician services
28 to any person other than those permitted by the license and that the
29 applicant will not accept any amount or form of remuneration, other
30 than as reimbursement for the amount of actual expenses incurred as
31 a volunteer physician, for any physician services provided under the
32 authority of a volunteer's license.

33 (4) A volunteer's license shall be valid for that period specified
34 for physicians in section 54-1808, Idaho Code, and may be renewed upon
35 application of the licensee unless the license has been revoked in
36 accordance with this section. The board shall maintain a register of all
37 physicians who hold a volunteer's license. The board shall not charge an
38 application or licensing fee for issuing or renewing a volunteer's license.
39 A volunteer's license cannot be converted to a license with active, inactive
40 or temporary status.

41 (5) The board may revoke a volunteer's license upon receiving
42 proof satisfactory to the board that grounds existed for enforcement or
43 disciplinary action against the holder of a volunteer's license under other
44 sections of this chapter or the administrative rules promulgated under this
45 chapter.

46 SECTION 41. That Section 54-3401, Idaho Code, be, and the same is hereby
47 amended to read as follows:

48 54-3401. DEFINITIONS. As used in this chapter:

1 (1) "Board" means the Idaho state licensing board of professional
2 counselors and marriage and family therapists.

3 (2) "Bureau chief" means the chief of the bureau of occupational
4 licenses of the state of Idaho.

5 (3) "Department" means the department of self-governing agencies of
6 the state of Idaho.

7 (4) "Licensed associate marriage and family therapist" means any
8 person licensed under this chapter as an associate marriage and family
9 therapist to practice marriage and family therapy under supervision as set
10 forth in this chapter.

11 (5) "Licensed marriage and family therapist" means any person licensed
12 under this chapter to practice marriage and family therapy as defined in this
13 chapter.

14 (6) "Licensed professional counselor" means any person licensed under
15 this chapter to practice professional counseling as defined in this chapter.

16 (7) "Marriage and family therapy" means the evaluation and treatment of
17 mental and emotional disorders, whether cognitive, affective or behavioral,
18 within the context of marriage and family systems. Marriage and family
19 therapy includes the professional application of psychotherapeutic and
20 family systems theories and techniques in the delivery of services to
21 individuals, couples and families for the purpose of treating nervous and
22 mental disorders.

23 (8) "Practice of marriage and family therapy" means the rendering of
24 professional marriage and family therapy services to individuals, couples
25 and families, singly or in groups, whether such services are offered
26 directly to the general public or through organizations, either public or
27 private. A licensed associate marriage and family therapist shall only
28 practice marriage and family therapy under supervision as established in
29 this chapter and rules of the board.

30 (9) "Practice of professional counseling" means the application of
31 mental health, psychological, and human development principles in order
32 to facilitate human development and adjustment throughout the life span;
33 prevent, assess, and treat mental, emotional or behavioral disorders
34 and associated distresses which interfere with mental health; conduct
35 assessments for the purpose of establishing treatment goals and objectives;
36 and plan, implement and evaluate treatment plans using counseling treatment
37 interventions. "Counseling treatment interventions" means the application
38 of cognitive, affective, behavioral, and systemic counseling strategies,
39 which include principles of development, wellness and pathology that
40 reflect a pluralistic society. Such interventions are specifically
41 implemented in the context of a professional counseling relationship.

42 The practice of professional counseling includes, but is not limited
43 to:

44 (a) Individual, group, marriage and family counseling and therapy;

45 (b) Assessment;

46 (c) Crisis intervention;

47 (d) Treatment of persons with mental and emotional disorders;

48 (e) Guidance and consulting to facilitate normal growth and
49 development, including educational and career development;

1 (f) Utilization of functional assessment and counseling for persons
 2 requesting assistance in adjustment to a disability ~~or handicapping~~
 3 ~~condition;~~

4 (g) Consulting;

5 (h) Research; and

6 (i) Referral.

7 The use of specific methods, techniques, or modalities within
 8 the practice of professional counseling is restricted to professional
 9 counselors appropriately trained in the use of such methods, techniques or
 10 modalities.

11 SECTION 42. That Section 56-101, Idaho Code, be, and the same is hereby
 12 amended to read as follows:

13 56-101. DEFINITIONS. Unless the context clearly requires otherwise,
 14 the definitions in this section apply throughout this chapter and shall have
 15 the following meanings:

16 (1) "Appraisal" means the method of determining the value of the
 17 property as determined by an appraisal conducted by a member of the
 18 appraisal institute (MAI), or successor organization. The appraisal
 19 must specifically identify the values of land, building, equipment, and
 20 goodwill.

21 (2) "Assets" means economic resources of the contractor, recognized
 22 and measured in conformity with generally accepted accounting principles.

23 (3) "Bed-weighted median" is determined by arraying the average per
 24 diem cost per bed of all facilities from high to low and identifying the bed
 25 at the point in the array at which half of the beds have equal or higher per
 26 diem costs and half have equal or lower per diem costs. The identified bed
 27 is the median bed. The per diem cost of the median bed is the bed-weighted
 28 median.

29 (4) "Case mix index" is a numeric score assigned to each facility
 30 resident, based on the resident's physical and mental condition, which
 31 projects the amount of relative resources needed to provide care to the
 32 resident.

33 (5) "Depreciation" means the systematic distribution of the cost or
 34 other basis of tangible assets, less salvage, over the estimated useful life
 35 of the assets.

36 (6) "Direct care costs" consists of the following costs directly
 37 assigned to the nursing facility or allocated to the nursing facility
 38 through medicare cost finding principles:

39 (a) Direct nursing salaries which include the salaries of registered
 40 nurses, licensed professional nurses, certificated nurse's aides, and
 41 unit clerks; and

42 (b) Routine nursing supplies; and

43 (c) Nursing administration; and

44 (d) Direct portion of medicaid related ancillary services; and

45 (e) Social services; and

46 (f) Raw food; and

47 (g) Employee benefits associated with the direct salaries.

48 (7) "Director" means the director of the department of health and
 49 welfare or the director's designee.

1 (8) "Equity" means the ~~new net~~ book value of all tangible and intangible
2 assets less the recorded value of all liabilities, as recognized and
3 measured in conformity with generally accepted accounting principles.

4 (9) "Facility" means an entity which contracts with the director
5 to provide services to recipients in a structure owned, controlled, or
6 otherwise operated by such entity, and which entity is responsible for
7 operational decisions. In conjunction with the use of the term "facility":

8 (a) "~~Free standing~~Freestanding intermediate care" means an
9 intermediate care facility, as defined in and licensed under chapter
10 13, title 39, Idaho Code, which is not owned, managed, or operated by,
11 nor is otherwise a part of a hospital, as defined in section 39-1301(a),
12 Idaho Code; and

13 (b) "~~Free standing~~Freestanding skilled care" means a nursing
14 facility, as defined in and licensed under chapter 13, title 39, Idaho
15 Code, which is not owned, managed, or operated by, nor is otherwise a
16 part of a hospital, as defined in section 39-1301(a), Idaho Code; and

17 (c) "~~Free standing~~Freestanding special care" means a facility that
18 provides either intermediate care, or skilled care, or intermediate
19 care for ~~the mentally retarded~~ people with intellectual disabilities,
20 or any combination of either, which is not owned, managed, or operated
21 by, nor is otherwise a part of a hospital, as defined in section
22 39-1301(a), Idaho Code; and

23 (d) "Hospital-based" means a nursing or intermediate care facility, as
24 defined in and licensed under chapter 13, title 39, Idaho Code, which is
25 owned, managed, or operated by, or is otherwise a part of a hospital, as
26 defined in section 39-1301(a), Idaho Code.

27 (10) "Forced sale" is a sale required by a bankruptcy, foreclosure, the
28 provisions of a will or estate settlement pursuant to the death of an owner,
29 physical or mental incapacity of an owner which requires ownership transfer
30 to existing partner or partners, or a sale required by the ruling of a federal
31 agency or by a court order.

32 (11) "Goodwill" means the amount paid by the purchaser that exceeds the
33 net tangible assets received. The value of goodwill is derived from the
34 economic benefits that a going concern may enjoy, as compared with a new
35 one, from established relations in the related markets, with government
36 departments and other noncommercial bodies and with personal relationships.
37 These intangible assets cannot be separated from the business and sold as can
38 plant and equipment. Under the theory that the excess payment would be made
39 only if expected future earnings justified it, goodwill is often described
40 as the price paid for excess future earnings. The amortization of goodwill
41 is nonallowable, nonreimbursable expense.

42 (12) "Historical cost" means the actual cost incurred in acquiring and
43 preparing an asset for use, including feasibility studies, architect's
44 fees, and engineering studies.

45 (13) "Indirect care costs" consists of the following costs either
46 directly coded to the nursing facility or allocated to the nursing facility
47 through the medicare step-down process:

48 (a) Administrative and general care cost; and

49 (b) Activities; and

50 (c) Central services and supplies; and

- 1 (d) Laundry and linen; and
 2 (e) Dietary ("non-raw food" costs); and
 3 (f) Plant operation and maintenance (excluding utilities); and
 4 (g) Medical records; and
 5 (h) Employee benefits associated with the indirect salaries; and
 6 (i) Housekeeping; and
 7 (j) Other costs not included in direct care costs or costs exempt from
 8 cost limits.

9 (14) "Interest rate limitation" means that the interest rate allowed
 10 for working capital loans and for loans for major movable equipment
 11 for intermediate care facilities for ~~the mentally retarded~~ people with
 12 intellectual disabilities shall be the prime rate as published in the
 13 western edition of the Wall Street Journal or successor publication,
 14 plus one percent (1%) at the date the loan is made. All interest expense
 15 greater than the amount derived by using the limitation above shall be
 16 nonreimbursable; provided, however, that this interest rate limitation
 17 shall not be imposed against loans or leases which were made prior to July 1,
 18 1984. Said loans or leases shall be subject to the tests of reasonableness,
 19 relationship to patient care and necessity.

20 (15) "Intermediate care facility for ~~the mentally retarded~~ people with
 21 intellectual disabilities" means an habilitative facility designed and
 22 operated to meet the educational, training, habilitative and intermittent
 23 medical needs of the developmentally disabled.

24 (16) "Major movable equipment" means such items as accounting
 25 machines, beds, wheelchairs, desks, furniture, vehicles, etc. The
 26 general characteristics of this equipment are:

- 27 (a) A relatively fixed location in the building;
 28 (b) Capable of being moved, as distinguished from building equipment;
 29 (c) A unit cost sufficient to justify ledger control;
 30 (d) Sufficient size and identity to make control feasible by means of
 31 identification tags; and
 32 (e) A minimum life of approximately three (3) years.

33 (17) "Medicaid" means the 1965 amendments to the social security act
 34 (P.L. 89-97), as amended.

35 (18) "Minor movable equipment" includes such items as wastebaskets,
 36 bedpans, syringes, catheters, silverware, mops, buckets, etc. The general
 37 characteristics of this equipment are:

- 38 (a) In general, no fixed location and subject to use by various
 39 departments of the provider's facility;
 40 (b) Comparatively small in size and unit cost;
 41 (c) Subject to inventory control;
 42 (d) Fairly large quantity in use; and
 43 (e) Generally, a useful life of approximately three (3) years or less.

44 (19) "Net book value" means the historical cost of an asset, less
 45 accumulated depreciation.

46 (20) "Normalized per diem costs" refers to direct care costs that have
 47 been adjusted based on the facility's case mix index for purposes of making
 48 the per diem costs comparable among facilities. Normalized per diem costs
 49 are calculated by dividing the facility's direct care per diem costs by its

1 facility-wide case mix index, and multiplying the result by the statewide
2 average case mix index.

3 (21) "Nursing facility inflation rate" means the most specific skilled
4 nursing facility inflation rate applicable to Idaho established by data
5 resources, inc., or its successor. If a state or regional index has not been
6 implemented, the national index shall be used.

7 (22) "Patient-day" means a calendar day of care which will include the
8 day of admission and exclude the day of discharge unless discharge occurs
9 after 3:00 p.m. or it is the date of death, except that, when admission and
10 discharge occur on the same day, one (1) day of care shall be deemed to exist.

11 (23) "Property costs" means the total of allowable interest expense,
12 plus depreciation, property insurance, real estate taxes, amortization,
13 and allowable lease/rental expense. The department may require and utilize
14 an appraisal to establish those components of property costs which are
15 identified as an integral part of an appraisal.

16 (24) "Raw food" means food used to meet the nutritional needs of the
17 residents of a facility, including liquid dietary supplements, liquid
18 thickeners, and tube feeding solutions.

19 (25) "Reasonable property insurance" means that the consideration
20 given is an amount that would ordinarily be paid by a cost-conscious buyer
21 for comparable insurance in an arm's length transaction. Property insurance
22 per licensed bed in excess of two (2) standard deviations above the mean of
23 the most recently reported property insurance costs per licensed bed of all
24 facilities in the reimbursement class as of the end of a facility's fiscal
25 year shall not be considered reasonable.

26 (26) "Recipient" means an individual determined eligible by the
27 director for the services provided in the state plan for medicaid.

28 (27) "Rural hospital-based nursing facilities" are those
29 hospital-based nursing facilities not located within a metropolitan
30 statistical area (MSA) as defined by the United States bureau of the census.

31 (28) "Urban hospital-based nursing facilities" are those
32 hospital-based nursing facilities located within a metropolitan
33 statistical area (MSA) as defined by the United States bureau of the census.

34 (29) "Utilities" means all expenses for heat, electricity, water and
35 sewer.

36 SECTION 43. That Section 56-108, Idaho Code, be, and the same is hereby
37 amended to read as follows:

38 56-108. PROPERTY REIMBURSEMENT -- FACILITIES WILL BE PAID A PROPERTY
39 RENTAL RATE, PROPERTY TAXES AND REASONABLE PROPERTY INSURANCE. The
40 provisions of this section shall not apply to hospital-based facilities
41 which are subject to the provisions of section 56-120, Idaho Code, or
42 to intermediate care facilities for ~~the mentally retarded~~ people with
43 intellectual disabilities which are subject to the provisions of section
44 56-113, Idaho Code. The provisions of this section are applicable to all
45 other facilities. The property rental rate includes compensation for major
46 movable equipment but not for minor movable equipment. The property rental
47 rate is paid in lieu of payment for amortization, depreciation, and interest
48 for financing the cost of land and depreciable assets. Prior to final audit,

1 the director shall determine an interim rate that approximates the property
2 rental rate. The property rental rate shall be determined as follows:

3 (1) Except as determined pursuant to this section:

$$4 \text{ Property rental rate} = (\text{"Property base"}) \times (\text{"Change in building} \\ 5 \text{ costs"}) \times \frac{(40 - \text{"Age of facility"})}{40}$$

6 where:

7 (a) "Property base" = \$9.24 for all facilities.

8 (b) "Change in building costs" = 1.0 from April 1, 1985, through
9 December 31, 1985. Thereafter "Change in building costs" will be
10 adjusted for each calendar year to reflect the reported annual change
11 in the building cost index for a class D building in the western region,
12 as of September of the prior year, published by the Marshall Swift
13 Valuation Service. However, for freestanding skilled care facilities
14 "change in building costs" = 1.145 from July 1, 1991, through December
15 31, 1991. Thereafter, change in building costs for freestanding
16 skilled care facilities will be adjusted each calendar year to reflect
17 the reported annual change in the building cost index for a class D
18 building in the western region, as of September of the prior year as
19 published by the Marshall Swift Valuation Service or the consumer price
20 index for renter's costs available in September of the prior year,
21 whichever is greater.

22 (c) "Age of facility" = the director shall determine the effective age,
23 in years, of the facility by subtracting the year in which the facility,
24 or portion thereof, was constructed from the year in which the rate
25 is to be applied. No facility or portion thereof shall be assigned an
26 age of more than thirty (30) years. However, beginning July 1, 1991,
27 for freestanding skilled care facilities, "age of facility" will be
28 a revised age which is the lesser of the age established under other
29 provisions of this section or the age which most closely yields the rate
30 allowable to existing facilities as of June 30, 1991, under subsection
31 (1) of this section. This revised age shall not increase over time.

32 (i) If adequate information is not submitted by the facility
33 to document that the facility, or portion thereof, is newer than
34 thirty (30) years, the director shall set the effective age at
35 thirty (30) years. Adequate documentation shall include, but
36 not be limited to, such documents as copies of building permits,
37 tax assessors' records, receipts, invoices, building contracts,
38 and original notes of indebtedness. The director shall compute
39 an appropriate age for facilities when documentation is provided
40 to reflect expenditures for building expansion or remodeling
41 prior to the effective date of this section. The computation
42 shall decrease the age of a facility by an amount consistent with
43 the expenditure and the square footage impacted and shall be
44 calculated as follows:

45 1. Determine, according to indexes published by the
46 Marshall Swift Valuation Service, the construction cost per
47 square foot of an average class D convalescent hospital in
48 the western region for the year in which the expansion or
49 renovation was completed.
50

1 2. Multiply the total square footage of the building
2 following the expansion or renovation by the cost per square
3 foot to establish the estimated replacement cost of the
4 building at that time.

5 3. The age of the building at the time of construction shall
6 be multiplied by the quotient of total actual renovation
7 or remodeling costs divided by replacement cost. If this
8 number is equal to or greater than 2.0, the age of the
9 building in years will be reduced by this number, rounded
10 to the nearest whole number. In no case will the age be less
11 than zero (0).

12 (ii) The director shall adjust the effective age of a facility
13 when major repairs, replacement, remodeling or renovation
14 initiated after April 1, 1985, would result in a change in age
15 of at least one (1) year. Such changes shall not increase the
16 allowable property rental rate by more than three-fourths (3/4)
17 of the difference between the adjusted property base determined
18 in subsections (1) (a) and (1) (b) of this section and the rental
19 rate paid to the facility at the time of completion of such changes
20 but before the change component has been added to said rate. The
21 adjusted effective age of the facility will be used in future age
22 determinations, unless modified by provisions of this chapter.

23 (iii) The director shall allow for future adjustments to the
24 effective age of a facility or its rate to reimburse an appropriate
25 amount for property expenditures resulting from new requirements
26 imposed by state or federal agencies. The director shall, within
27 twelve (12) months of verification of expenditure, reimburse the
28 medicaid share of the entire cost of such new requirements as a
29 one-time payment if the incurred cost for a facility is less than
30 one hundred dollars (\$100) per bed.

31 (d) At no time shall the property rental rate, established under
32 subsection (1) of this section, be less than that allowed in subsection
33 (1) (c) (ii), with the rate in effect December 31, 1988, being the base.
34 However, subsequent to the application of this paragraph, before any
35 rate increase may be paid, it must first be offset by any rate decrease
36 that would have been realized if the provisions of this paragraph had
37 not been in effect.

38 (2) A "grandfathered rate" for existing facilities will be determined
39 by dividing the audited allowable annual property costs, exclusive of taxes
40 and insurance, for assets on hand as of January 1, 1985, by the total patient
41 days in the period July 1, 1984, through June 30, 1985. The property rental
42 rate will be the greater of the amount determined pursuant to subsection
43 (1) of this section, or the grandfathered rate. The director shall adjust
44 the grandfathered rate of a facility to compensate the owner for the cost
45 of major repairs, replacement, expansion, remodeling and renovation
46 initiated prior to April 1, 1985, and completed after January 1, 1985,
47 but completed no later than December 31, 1985. For facilities receiving
48 a grandfathered rate making major repairs, replacement, expansion,
49 remodeling or renovation, initiated after January 1, 1986, the director
50 shall compare the grandfathered rate of the facility to the actual

1 depreciation, amortization, and interest for the current audit period
2 plus the per diem of the recognized cost of major repairs, replacement,
3 expansion, remodeling or renovation, amortized over the American hospital
4 association guideline component useful life. The greater of the two (2)
5 numbers will be allowed as the grandfathered rate. Such changes shall not
6 increase the allowable grandfathered rate by more than three-fourths (3/4)
7 of the difference between the current grandfathered rate and the adjusted
8 property base determined in subsections (1) (a) and (1) (b) of this section.

9 (3) The property rental rate per day of care paid to facilities with
10 leases signed prior to March 30, 1981, will be the sum of the annualized
11 allowed lease costs and the other annualized property costs for assets
12 on hand as of January 1, 1985, exclusive of taxes and insurance when paid
13 separately, divided by total patient days in the period June 30, 1983,
14 through July 1, 1984. Effective July 1, 1989, the director shall adjust
15 the property rental rate of a leased skilled facility under this paragraph
16 to compensate for the cost of major repairs, replacement, expansion,
17 remodeling and renovation initiated after January 1, 1985, by adding the per
18 diem of the recognized cost of such expenditures amortized over the American
19 hospital association guideline component useful life. Such addition shall
20 not increase the allowable property rental rate by more than three-fourths
21 (3/4) of the difference between the current property rental rate and the
22 adjusted property base as determined in paragraphs (a) and (b) of subsection
23 (1) of this section. Where such leases contain provisions that bind the
24 lessee to accept an increased rate, reimbursement shall be at a rate per day
25 of care which reflects the increase in the lease rate. Where such leases bind
26 the lessee to the lease and allow the rate to be renegotiated, reimbursement
27 shall be at a rate per day of care which reflects an annual increase in the
28 lease rate not to exceed the increase in the consumer price index for renters
29 costs. After the effective date of this subsection, if such a lease is
30 terminated or if the lease allows the lessee the option to terminate other
31 than by purchase of the facility, the property rental rate shall become the
32 amount determined by the formula in subsection (1) of this section as of the
33 date on which the lease is or could be terminated.

34 (4) (a) In the event of a sale, the buyer shall receive the property
35 rental rate as provided in subsection (1) of this section, except
36 under the conditions of paragraph (b) of this subsection or except in
37 the event of the first sale for a freestanding skilled care facility
38 receiving a grandfathered rate after June 30, 1991, whereupon the new
39 owner shall receive the same rate that the seller would have received at
40 any given point in time.

41 (b) In the event of a forced sale of a facility where the seller has been
42 receiving a grandfathered rate, the buyer will receive a rate based upon
43 his incurred property costs, exclusive of taxes and insurance, for the
44 twelve (12) months following the sale, divided by the facility's total
45 patient days for that period, or the property rental rate, whichever is
46 higher, but not exceeding the rate that would be due the seller.

47 SECTION 44. That Section 56-113, Idaho Code, be, and the same is hereby
48 amended to read as follows:

1 56-113. INTERMEDIATE CARE FACILITIES FOR ~~THE MENTALLY RETARDED PEOPLE~~
2 WITH INTELLECTUAL DISABILITIES. (1) Services provided by intermediate care
3 facilities for ~~the mentally retarded~~ people with intellectual disabilities,
4 with the exception of state operated facilities, shall be paid in accordance
5 with the provisions of this section, and not as provided in any other section
6 of this chapter, unless otherwise provided in this section. State operated
7 facilities shall be reimbursed costs based on medicare reasonable cost
8 provisions.

9 (2) Except as otherwise provided in this section, intermediate care
10 facilities for ~~the mentally retarded~~ people with intellectual disabilities
11 shall remain at the rate paid in state fiscal year 2009 through June 30, 2010.
12 Thereafter, intermediate care facilities for ~~the mentally retarded~~ people
13 with intellectual disabilities shall be reimbursed based on a prospective
14 rate system without retrospective settlement effective October 1, 1996. In
15 no event, shall payments to this class of facility exceed, in the aggregate,
16 the amount which would be reimbursed using medicare cost reimbursement
17 methods as defined in the medicare provider reimbursement manual (HCFA -
18 pub. 15).

19 (3) The prospective rate shall consist of the following components:

20 (a) A component for reasonable property costs which shall be computed
21 using the property rental rate methodology set forth in section 56-108,
22 Idaho Code, with the exceptions that the base rate shall exclude major
23 moveable equipment and grandfathered rates will not apply. The initial
24 base rate shall be eight dollars and ninety-four cents (\$8.94) for
25 facilities that accommodate residents in wheelchairs and five dollars
26 and eighty-one cents (\$5.81) for facilities that cannot accommodate
27 residents in wheelchairs. The rates shall be adjusted annually as
28 provided in section 56-108, Idaho Code; and

29 (b) A component for forecasted reasonable day treatment costs which
30 shall be subject to a per patient day limit as provided in rule; and

31 (c) A component for all other allowable costs as determined in
32 accordance with department rules which shall be subject to a limitation
33 based on a percentage of the forecasted median for such costs of
34 intermediate care facilities for ~~the mentally retarded~~ people with
35 intellectual disabilities, excluding state operated facilities; and

36 (d) A component that provides an efficiency increment payment of
37 twenty cents (20¢) for each one dollar (\$1.00) per patient day that
38 the facility is under the limit described in subsection (3) (c) of this
39 section up to a maximum payment of three dollars (\$3.00) per patient
40 day.

41 (4) The director may require retrospective settlement as provided by
42 rule in limited circumstances including, but not limited to:

43 (a) The facility fails to meet quality of care standards; or

44 (b) The facility is new or operated by a new provider, until such time as
45 a prospective rate is set; or

46 (c) The prospective rate resulted from fraud, abuse or error.

47 (5) The director shall have authority to provide by rule, exceptions to
48 the limitations described in subsection (3) of this section.

49 (6) The director shall promulgate the rules necessary to carry out the
50 provisions of this section.

1 SECTION 45. That Section 56-203, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 56-203. POWERS OF STATE DEPARTMENT. The state department shall have
4 the power to:

5 (~~a~~1) Enter into contracts and agreements with the federal government
6 through its appropriate agency or instrumentality whereby the state of Idaho
7 shall receive federal grants-in-aid or other benefits for public assistance
8 or public welfare purposes under any act or acts of congress heretofore or
9 hereafter enacted;

10 (~~b~~2) Cooperate with the federal government in carrying out the purposes
11 of any federal acts pertaining to public assistance or welfare services, and
12 in other matters of mutual concern;

13 (~~e~~3) Cooperate with county governments and other branches of
14 government and other agencies, public or private, in administering and
15 furnishing public welfare services;

16 (~~d~~4) Enter into reciprocal agreements with other states relative to
17 the provisions of public assistance and welfare services to residents and
18 nonresidents;

19 (~~e~~5) Initiate and administer public assistance and social services for
20 persons with physically or mentally handicapped disabilities;

21 (~~f~~6) Establish such requirements of residence for public assistance
22 under this act as may be deemed advisable, subject to any limitations imposed
23 in this act;

24 (~~g~~7) Define persons entitled to medical assistance in such terms as
25 will meet requirements for federal financial participation in medical
26 assistance payments;

27 (~~h~~8) Accept the legal custody of children committed to it by district
28 courts of this state under the Child Protective Act, to provide protective
29 supervision as defined therein, to place children for adoption when such
30 children are in the legal custody of the state department and are legally
31 available for adoption and to exercise consent to adoption when the
32 authority to do so is vested in the department by court order or legally
33 authorized parental relinquishment;

34 (~~i~~9) Determine the amount, duration and scope of care and services to be
35 purchased as medical assistance on behalf of needy eligible individuals;

36 (~~j~~10) Manage and operate the Idaho state school and hospital at Nampa,
37 Idaho.

38 SECTION 46. That Section 56-218A, Idaho Code, be, and the same is hereby
39 amended to read as follows:

40 56-218A. MEDICAL ASSISTANCE LIENS DURING LIFE OF RECIPIENT. (1) The
41 department may recover and may impose a lien against the real property of any
42 individual prior to his death for medical assistance paid or about to be paid
43 under this chapter on behalf of an individual:

44 (a) Who is an inpatient in a nursing facility, intermediate
45 care facility for ~~the mentally retarded~~ people with intellectual
46 disabilities, or other medical institution, if such individual is
47 required, as a condition of receiving services in such institution

1 under the state plan, to spend for costs of medical care all but a
2 minimal amount of his income required for personal needs; and

3 (b) With respect to whom the department has determined, after notice
4 and opportunity for hearing, that he cannot reasonably be expected to be
5 discharged from the medical institution and to return home.

6 (2) No lien may be imposed on the home of an individual under subsection
7 (1) of this section if any of the following is lawfully residing in such home:

8 (a) The spouse of such individual;

9 (b) Such individual's child under age twenty-one (21) years;

10 (c) Such individual's child who is blind or permanently and totally
11 disabled as defined in 42 U.S.C. 1382c; or

12 (d) A sibling of such individual who holds an equity interest in such
13 home and who was residing in such home for a period of at least one (1)
14 year prior to the individual's admission to the medical institution.

15 (3) (a) The lien shall be perfected by filing in the office of the
16 secretary of state a notice of lien pursuant to section 45-1904, Idaho
17 Code. The notice of lien shall include, in addition to the information
18 required by section 45-1904, Idaho Code, the amount paid or about to be
19 paid by the department on behalf of the individual, and, if applicable,
20 the fact that the amount of the lien may increase over time.

21 (b) The department shall file any notice of lien under this section
22 within ninety (90) days of the final determination of the department,
23 after hearing if any, required in subsection (1)(b) of this section,
24 with the exception of property against which the department is
25 prevented from filing a lien pursuant to subsection (2) of this section.
26 With respect to the property described in subsection (2) of this
27 section, the department shall file a notice of lien within ninety (90)
28 days after the department is notified in writing that subsection (2) of
29 this section ceases to apply to the property.

30 (4) Any lien imposed in accordance with subsection (1) of this section
31 shall dissolve upon the individual's discharge from the medical institution
32 and return home.

33 (5) No recovery shall be made under this section for medical assistance
34 correctly paid except from such individual's estate as defined in subsection
35 (4) of section 56-218, Idaho Code, and subject to subsections (1)(d), (5) and
36 (6) of section 56-218, Idaho Code, or upon sale of the property subject to
37 a lien and may be made only after the death of such individual's surviving
38 spouse, if any, and only at a time:

39 (a) When he has no surviving child who is under age twenty-one (21)
40 years, or who is blind or permanently and totally disabled as defined in
41 42 U.S.C. 1382c; or

42 (b) In the case of a lien on an individual's home under subsection (1)
43 of this section, when none of the following is lawfully residing in such
44 home who has lawfully resided in such home on a continuous basis since
45 the date of the individual's admission to the medical institution:

46 (i) A sibling of the individual, who was residing in the
47 individual's home for a period of at least one (1) year immediately
48 before the date of the individual's admission to the medical
49 institution; or

1 (ii) A son or daughter of the individual, who was residing in
 2 the individual's home for a period of at least two (2) years
 3 immediately before the date of the individual's admission to the
 4 medical institution and who establishes to the satisfaction of
 5 the state that he or she provided care to such individual which
 6 permitted such individual to reside at home rather than in an
 7 institution.

8 (6) The director shall promulgate rules reasonably necessary to
 9 implement this section including, but not limited to, rules establishing
 10 undue hardship waivers, as provided in section 56-218(7), Idaho Code, and
 11 a procedure for notice and opportunity for hearing on the department's
 12 determination that an individual cannot reasonably be expected to be
 13 discharged from a medical institution and to return home.

14 SECTION 47. That Section 56-255, Idaho Code, be, and the same is hereby
 15 amended to read as follows:

16 56-255. MEDICAL ASSISTANCE PROGRAM -- SERVICES TO BE PROVIDED. (1)
 17 The department may make payments for the following services furnished by
 18 providers to participants who are determined to be eligible on the dates
 19 on which the services were provided. Any service under this section shall
 20 be reimbursed only when medically necessary and in accordance with federal
 21 law and regulation, Idaho law and department rule. Notwithstanding any
 22 other provision of this chapter, medical assistance includes the following
 23 benefits specific to the eligibility categories established in section
 24 56-254(1), (2) and (3), Idaho Code, as well as a list of benefits to which all
 25 Idaho medicaid participants are entitled, defined in subsection (5) of this
 26 section.

27 (2) Specific health benefits and limitations for low-income children
 28 and working-age adults with no special health needs include:

29 (a) All services described in subsection (5) of this section;

30 (b) Early and periodic screening, diagnosis and treatment services
 31 for individuals under age twenty-one (21) years, and treatment of
 32 conditions found; and

33 (c) Cost-sharing required of participants. Participants in the
 34 low-income children and working-age adult group are subject to the
 35 following premium payments, as stated in department rules:

36 (i) Participants with family incomes equal to or less than
 37 one hundred thirty-three percent (133%) of the federal poverty
 38 guideline are not required to pay premiums; and

39 (ii) Participants with family incomes above one hundred
 40 thirty-three percent (133%) of the federal poverty guideline will
 41 be required to pay premiums in accordance with department rule.

42 (3) Specific health benefits for persons with disabilities or special
 43 health needs include:

44 (a) All services described in subsection (5) of this section;

45 (b) Early and periodic screening, diagnosis and treatment services
 46 for individuals under age twenty-one (21) years, and treatment of
 47 conditions found;

48 (c) Case management services as defined in accordance with section
 49 1905(a)(19) or section 1915(g) of the social security act; and

- 1 (d) Mental health services, including:
2 (i) Inpatient psychiatric facility services whether in a
3 hospital, or for persons under age twenty-two (22) years in
4 a freestanding psychiatric facility, as permitted by federal
5 law, in excess of those limits in department rules on inpatient
6 psychiatric facility services provided under subsection (5) of
7 this section;
8 (ii) Outpatient mental health services in excess of those limits
9 in department rules on outpatient mental health services provided
10 under subsection (5) of this section; and
11 (iii) Psychosocial rehabilitation for reduction of mental
12 disability for children under the age of eighteen (18) years
13 with a serious emotional disturbance (SED) and for severely and
14 persistently mentally ill adults, aged eighteen (18) years or
15 older, with severe and persistent mental illness;
- 16 (e) Long-term care services, including:
17 (i) Nursing facility services, other than services in an
18 institution for mental diseases, subject to participant
19 cost-sharing;
20 (ii) Home-based and community-based services, subject to federal
21 approval, provided to individuals who require nursing facility
22 level of care who, without home-based and community-based
23 services, would require institutionalization. These services
24 will include community supports, including an option for
25 self-determination, which will enable individuals to have
26 greater freedom to manage their own care; and
27 (iii) Personal care services in a participant's home, prescribed
28 in accordance with a plan of treatment and provided by a qualified
29 person under supervision of a registered nurse;
- 30 (f) Services for persons with developmental disabilities, including:
31 (i) Intermediate care facility services, other than such
32 services in an institution for mental diseases, for persons
33 determined in accordance with section 1902(a)(31) of the social
34 security act to be in need of such care, including such services in
35 a public institution, or distinct part thereof, for ~~the mentally~~
36 retarded persons with intellectual disabilities or persons with
37 related conditions;
38 (ii) Home-based and community-based services, subject to federal
39 approval, provided to individuals who require an intermediate
40 care facility for ~~the mentally retarded~~ people with intellectual
41 disabilities (ICF/MR/ID) level of care who, without home-based and
42 community-based services, would require institutionalization.
43 These services will include community supports, including an
44 option for self-determination, which will enable individuals to
45 have greater freedom to manage their own care; and
46 (iii) Developmental services. The department shall pay
47 for rehabilitative services, including medical or remedial
48 services provided by a facility that has entered into a provider
49 agreement with the department and is certified as a developmental
50 disabilities agency by the department;

- 1 (g) Home health services, including:
2 (i) Intermittent or part-time nursing services provided by a home
3 health agency or by a registered nurse when no home health agency
4 exists in the area;
5 (ii) Home health aide services provided by a home health agency;
6 and
7 (iii) Physical therapy, occupational therapy or speech pathology
8 and audiology services provided by a home health agency or medical
9 rehabilitation facility;
- 10 (h) Hospice care in accordance with section 1905(o) of the social
11 security act;
- 12 (i) Specialized medical equipment and supplies;
- 13 (j) Medicare cost-sharing, including:
14 (i) Medicare cost-sharing for qualified medicare beneficiaries
15 described in section 1905(p) of the social security act;
16 (ii) Medicare part A premiums for qualified disabled and working
17 individuals described in section 1902(a)(10)(E)(ii) of the social
18 security act;
19 (iii) Medicare part B premiums for specified low-income medicare
20 beneficiaries described in section 1902(a)(10)(E)(iii) of the
21 social security act; and
22 (iv) Medicare part B premiums for qualifying individuals
23 described in section 1902(a)(10)(E)(iv) and subject to section
24 1933 of the social security act; and
- 25 (k) Nonemergency medical transportation.
- 26 (4) Specific health benefits for persons over twenty-one (21) years of
27 age who have medicare and medicaid coverage include:
28 (a) All services described in subsection (5) of this section, other
29 than if provided under the federal medicare program;
30 (b) All services described in subsection (3) of this section, other
31 than if provided under the federal medicare program;
32 (c) Other services that supplement medicare coverage; and
33 (d) Nonemergency medical transportation.
- 34 (5) Benefits for all medicaid participants, unless specifically
35 limited in subsection (2), (3) or (4) of this section include the following:
36 (a) Health care coverage including, but not limited to, basic inpatient
37 and outpatient medical services, and including:
38 (i) Physicians' services, whether furnished in the office, the
39 patient's home, a hospital, a nursing facility or elsewhere;
40 (ii) Services provided by a physician or other licensed
41 practitioner to prevent disease, disability and other health
42 conditions or their progressions, to prolong life, or to promote
43 physical or mental health; and
44 (iii) Hospital care, including:
45 1. Inpatient hospital services other than those services
46 provided in an institution for mental diseases;
47 2. Outpatient hospital services; and
48 3. Emergency hospital services;
- 49 (iv) Laboratory and x-ray services;
50 (v) Prescribed drugs;

- 1 (vi) Family planning services and supplies for individuals of
2 child-bearing age;
- 3 (vii) Certified pediatric or family nurse practitioners'
4 services;
- 5 (viii) Emergency medical transportation;
- 6 (ix) Mental health services, including:
- 7 1. Outpatient mental health services that are appropriate,
8 within limits stated in department rules; and
- 9 2. Inpatient psychiatric facility services within limits
10 stated in department rules;
- 11 (x) Medical supplies, equipment, and appliances suitable for use
12 in the home; and
- 13 (xi) Physical therapy and related services;
- 14 (b) Primary care case management;
- 15 (c) Dental services, and medical and surgical services furnished by a
16 dentist in accordance with section 1905(a)(5)(B) of the social security
17 act;
- 18 (d) Medical care and any other type of remedial care recognized under
19 Idaho law, furnished by licensed practitioners within the scope of
20 their practice as defined by Idaho law, including:
- 21 (i) Podiatrists' services;
- 22 (ii) Optometrists' services;
- 23 (iii) Chiropractors' services; and
- 24 (iv) Other practitioners' services, in accordance with
25 department rules;
- 26 (e) Services for individuals with speech, hearing and language
27 disorders, provided by or under the supervision of a speech pathologist
28 or audiologist;
- 29 (f) Eyeglasses prescribed by a physician skilled in diseases of the eye
30 or by an optometrist;
- 31 (g) Services provided by essential providers, including:
- 32 (i) Rural health clinic services and other ambulatory services
33 furnished by a rural health clinic in accordance with section
34 1905(1)(1) of the social security act;
- 35 (ii) Federally qualified health center (FQHC) services and other
36 ambulatory services that are covered under the plan and furnished
37 by an FQHC in accordance with section 1905(1)(2) of the social
38 security act;
- 39 (iii) Indian health services;
- 40 (iv) District health departments; and
- 41 (v) The family medicine residency of Idaho and the Idaho state
42 university family medicine residency;
- 43 (h) Any other medical care and any other type of remedial care
44 recognized under state law, specified by the secretary of the federal
45 department of health and human services; and
- 46 (i) Physician, hospital or other services deemed experimental are
47 excluded from coverage. The director may allow coverage of procedures
48 or services deemed investigational if the procedures or services are as
49 cost-effective as traditional, standard treatments.

1 SECTION 48. That the Heading for Chapter 7, Title 56, Idaho Code, be,
2 and the same is hereby amended to read as follows:

3 CHAPTER 7
4 RIGHTS OF THE BLIND AND ~~PHYSICALLY HANDICAPPED~~ PERSONS WITH PHYSICAL
5 DISABILITIES

6 SECTION 49. That Section 56-701, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 56-701. POLICY OF STATE. It is the policy of this state to encourage
9 and enable the blind, the visually ~~handicapped~~ impaired, the hearing
10 impaired, and the otherwise physically disabled to participate fully in
11 the social and economic life of the state and to engage in remunerative
12 employment.

13 SECTION 50. That Section 56-701A, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 56-701A. DEFINITIONS. As used in this chapter and chapter 58, title
16 18, Idaho Code:

17 (1) "Assistance device" means a cane or walking stick, predominantly
18 white or metallic in color, with or without red tip, or a manual or motorized
19 wheelchair or similar scooter, or other similar devices that enhance the
20 safety or mobility of a disabled person.

21 (2) "Assistance dog" means a dog that has been trained as a guide dog
22 for a blind or visually impaired person, a hearing dog for a hearing impaired
23 person, or a service dog for a physically disabled person.

24 (3) "Disabled person" means a hearing, visually or physically impaired
25 person.

26 (4) "Dog-in-training" means a dog being specifically trained to
27 develop social, environmental and other skills needed for admission to a
28 training school or other program for assistance dogs. Dogs-in-training
29 shall wear a jacket, collar, scarf or other similar article identifying it
30 as a dog-in-training.

31 (5) "Guide dog" means a dog that has been specially trained to aid a
32 particular blind or visually impaired person.

33 (6) "Hearing dog" means a dog that has been specially trained to aid a
34 particular hearing impaired person.

35 (7) "Hearing impaired person" means a person who has a hearing
36 impairment manifested by a speech discrimination score of forty percent
37 (40%) or more in the better ear with appropriate correction as certified
38 by a licensed otologist, licensed audiologist, or the Idaho division of
39 vocational rehabilitation.

40 (8) "Physically impaired person" means any person with any substantial
41 physical disability which prevents normal participation in community or
42 life activities as are available and participated in by persons with no such
43 afflictions or conditions of the same age and sex.

44 (9) "Service dog" means a dog that has been specially trained to aid a
45 particular physically disabled person with a physical disability other than
46 sight or hearing impairment.

1 (10) "Visually impaired person" ~~or "visually handicapped person"~~
2 means any person who is blind, totally blind, partially blind or otherwise
3 visually ~~handicapped~~ impaired meaning such person has central visual acuity
4 not exceeding 20/200 in the better eye, with corrected lenses, as measured by
5 the Snellen test, or visual acuity greater than 20/200, but with a limitation
6 in the field of vision such that the widest diameter of the visual field
7 subtends an angle not greater than twenty (20) degrees.

8 SECTION 51. That Section 56-702, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 56-702. RIGHT TO FULL AND FREE USE OF STREETS, HIGHWAYS, PUBLIC
11 BUILDINGS AND PUBLIC FACILITIES. The blind, the visually ~~handicapped~~
12 impaired, the hearing impaired, and the otherwise physically disabled have
13 the same right as the able-bodied to the full and free use of the streets,
14 highways, sidewalks, walkways, public buildings, public facilities, and
15 other public places.

16 SECTION 52. That Section 56-703, Idaho Code, be, and the same is hereby
17 amended to read as follows:

18 56-703. RIGHT TO FULL AND EQUAL ACCOMMODATIONS IN ALL COMMON CARRIERS,
19 HOTELS, LODGING HOUSES, PLACES OF PUBLIC ACCOMMODATION OR OTHER PUBLIC
20 PLACES. The blind, the visually ~~handicapped~~ impaired, the hearing
21 impaired, and the otherwise physically disabled are entitled to full
22 and equal accommodations, advantages, facilities, and privileges of all
23 common carriers, airplanes, motor vehicles, and railroad trains, motor
24 buses, streetcars, boats or any other public conveyances or modes of
25 transportation, hotels, lodging places, places of public accommodations,
26 amusement or resort, and other places to which the general public is invited,
27 subject only to the conditions and limitations established by law and
28 applicable alike to all persons.

29 SECTION 53. That Section 56-707, Idaho Code, be, and the same is hereby
30 amended to read as follows:

31 56-707. RIGHT TO BE EMPLOYED IN EMPLOYMENT SUPPORTED IN WHOLE OR IN
32 PART BY PUBLIC FUNDS -- RESTRICTION -- USE OF SICK LEAVE. (1) The blind,
33 the visually ~~handicapped~~ impaired, the hearing impaired, and the otherwise
34 disabled shall be employed in the state service, the service of the political
35 subdivisions of the state, in the public schools, and in all other employment
36 supported in whole or in part by public funds on the same terms and conditions
37 as the able-bodied, unless it is shown that the particular disability
38 prevents the performance of the work involved.

39 (2) Persons employed as provided in subsection (1) of this section, may
40 use accrued sick leave for the purpose of obtaining guide dogs and necessary
41 training.

42 SECTION 54. That Section 56-802, Idaho Code, be, and the same is hereby
43 amended to read as follows:

1 56-802. DEFINITIONS. For the purposes of this act:

2 (1) "Hard-to-place child" means a child who is difficult to place for
3 adoption or guardianship because of ethnic background, race, color, age,
4 sibling grouping, or physical or emotional ~~handicap~~ disability.

5 (2) "Department" means the department of health and welfare.

6 SECTION 55. That Section 56-1004A, Idaho Code, be, and the same is
7 hereby amended to read as follows:

8 56-1004A. CRIMINAL HISTORY AND BACKGROUND CHECKS. (1) To assist in
9 the protection of children and vulnerable adults, the legislature hereby
10 authorizes the department of health and welfare to conduct criminal history
11 and background checks of individuals who provide care or services to
12 vulnerable adults or children and are identified in rule as being required to
13 have a criminal history and background check.

14 (2) The criminal history and background check will be a
15 fingerprint-based check of state and national records and may include
16 information from the following:

17 (a) Statewide criminal identification bureau;

18 (b) Federal bureau of investigation (FBI);

19 (c) National crime information center;

20 (d) Statewide sex offender registry;

21 (e) Idaho transportation department driving records;

22 (f) Adult and child protection registries;

23 (g) Nurse aide registry; and

24 (h) Department of health and human services office of the inspector
25 general list of excluded individuals and entities.

26 (3) The department of health and welfare shall promulgate rules to
27 further define those individuals who are required to have a background check
28 and the effective date. Each individual shall complete an application,
29 which includes a notarized signature, on forms provided by the department.
30 The completed application authorizes the department to obtain and release
31 information in accordance with state and federal law. The applicant
32 must disclose all information requested, including information on past
33 convictions, driver's license revocations, and known adult or child
34 protection findings. Once an application has been completed, the employer,
35 at its discretion, may allow the individual to provide care or services
36 prior to the individual completing fingerprinting and pending completion
37 of the criminal history and background check by the department. The
38 department shall promulgate rules defining the time frame for submitting
39 the application. Under no circumstances may the individual be allowed
40 to provide care or services where the employer has reviewed the completed
41 application and the individual has disclosed a designated crime as set forth
42 in rule.

43 (4) The department shall review the information received from
44 the criminal history and background check and determine whether the
45 applicant has a criminal or other relevant record that would disqualify the
46 individual. The department shall determine which crimes disqualify the
47 applicant and for what period of time according to promulgated rules. The
48 process for the check and the issuance of a clearance or denial is set forth
49 in department rules. The applicant shall be provided an opportunity for a

1 formal review of a denial. The department shall communicate clearance or
2 denial to the applicant and the applicant's employer.

3 (5) Applicants are responsible for the cost of the background check
4 except where otherwise provided by department rules.

5 (6) The department, or an employer of an applicant, who acts in
6 reasonable reliance on the results of the criminal history and background
7 check in making an employment decision, is immune from liability for that
8 decision when it is based on such results.

9 (7) The department, its officers and employees are immune from
10 liability for the consequences of including or excluding classes of
11 individuals in the criminal history and background check process.

12 (8) Clearance through the criminal history and background check
13 process is not a determination of suitability for employment.

14 (9) Effective until September 30, 2007, or when federal funding is
15 no longer available, the legislature hereby authorizes the department
16 of health and welfare to participate in a federal pilot project to
17 conduct criminal history and background checks of providers, employees
18 and contractors who have access to patients in long-term care settings.
19 Long-term care facilities or providers include nursing facilities,
20 institutional care facilities for ~~the mentally retarded~~ people with
21 intellectual disabilities, residential or assisted living facilities,
22 long-term care hospitals or hospitals with swing beds, and home health
23 and hospice providers. The criminal history and background checks for the
24 long-term care providers, employees and contractors will be funded through
25 the federal grant at no cost to the long-term care providers, employees or
26 contractors until September 30, 2007, or the federal funding is no longer
27 available.

28 SECTION 56. That Section 63-701, Idaho Code, be, and the same is hereby
29 amended to read as follows:

30 63-701. DEFINITIONS. As used in this chapter:

31 (1) "Claimant" means a person who has filed an application under
32 section 63-602G, Idaho Code, and has filed a claim under the provisions of
33 sections 63-701 through 63-710, Idaho Code. Except as provided in section
34 63-702(2), Idaho Code, on January 1, or before April 15, of the year in which
35 the claimant first filed a claim on the homestead in question, a claimant
36 must be an owner of the homestead and on January 1 of said year a claimant must
37 be:

38 (a) Not less than sixty-five (65) years old; or

39 (b) A child under the age of eighteen (18) years who is fatherless or
40 motherless or who has been abandoned by any surviving parent or parents;
41 or

42 (c) A widow or widower; or

43 (d) A disabled person who is recognized as disabled by the social
44 security administration pursuant to title 42 of the United States Code,
45 or by the railroad retirement board pursuant to title 45 of the United
46 States Code, or by the office of management and budget pursuant to title
47 5 of the United States Code; or

48 (e) A disabled veteran of any war engaged in by the United States,
49 whose disability is recognized as a service-connected disability

1 of a degree of ten percent (10%) or more, or who has a pension for
2 nonservice-connected disabilities, in accordance with laws and
3 regulations administered by the United States department of veterans
4 affairs; or

5 (f) A person, as specified in 42 U.S.C. 1701, who was or is entitled
6 to receive benefits because he is known to have been taken by a hostile
7 force as a prisoner, hostage or otherwise; or

8 (g) Blind.

9 (2) "Homestead" means the dwelling, owner-occupied by the claimant
10 as described in this chapter and used as the primary dwelling place of the
11 claimant and may be occupied by any members of the household as their home,
12 and so much of the land surrounding it, not exceeding one (1) acre, as is
13 reasonably necessary for the use of the dwelling as a home. It may consist
14 of a part of a multidwelling or multipurpose building and part of the land
15 upon which it is built. "Homestead" does not include personal property such
16 as furniture, furnishings or appliances, but a manufactured home may be a
17 homestead.

18 (3) "Household" means the claimant and the claimant's spouse. The
19 term does not include bona fide lessees, tenants, or roomers and boarders on
20 contract. "Household" includes persons described in subsection (8) (b) of
21 this section.

22 (4) "Household income" means all income received by the claimant and,
23 if married, all income received by the claimant's spouse, in a calendar year.

24 (5) "Income" means the sum of federal adjusted gross income as defined
25 in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, and
26 to the extent not already included in federal adjusted gross income:

27 (a) Alimony;

28 (b) Support money;

29 (c) Nontaxable strike benefits;

30 (d) The nontaxable amount of any individual retirement account,
31 pension or annuity, (including railroad retirement benefits, all
32 payments received under the federal social security act except the
33 social security death benefit as specified in this subsection, state
34 unemployment insurance laws, and veterans disability pensions and
35 compensation, excluding any return of principal paid by the recipient
36 of an annuity and excluding rollovers as provided in section 402 or 403
37 of the Internal Revenue Code);

38 (e) Nontaxable interest received from the federal government or
39 any of its instrumentalities or a state government or any of its
40 instrumentalities;

41 (f) Worker's compensation; and

42 (g) The gross amount of loss of earnings insurance.

43 It does not include gifts from nongovernmental sources or inheritances. To
44 the extent not reimbursed, the cost of medical care as defined in section
45 213(d) of the Internal Revenue Code, incurred or paid by the claimant
46 and, if married, the claimant's spouse, may be deducted from income. To
47 the extent not reimbursed, personal funeral expenses, including prepaid
48 funeral expenses and premiums on funeral insurance, of the claimant and
49 claimant's spouse only, may be deducted from income up to an annual maximum
50 of five thousand dollars (\$5,000) per claim. "Income" does not include

1 veterans disability pensions received by a person described in subsection
2 (1) (e) who is a claimant or a claimant's spouse if the disability pension
3 is received pursuant to a service-connected disability of a degree of forty
4 percent (40%) or more. "Income" does not include dependency and indemnity
5 compensation or death benefits paid to a person described in subsection
6 (1) of this section by the United States department of veterans affairs and
7 arising from a service-connected death or disability. "Income" does not
8 include lump sum death benefits made by the social security administration
9 pursuant to 42 U.S.C. section 402(i). Documentation of medical expenses
10 may be required by the county assessor, board of equalization and state tax
11 commission in such form as the county assessor, board of equalization or
12 state tax commission shall determine. "Income" shall be that received in
13 the calendar year immediately preceding the year in which a claim is filed.
14 Where a claimant and/or the claimant's spouse does not file a federal tax
15 return, the claimant's and/or the claimant's spouse's federal adjusted
16 gross income, for purposes of this section, shall be an income equivalent
17 to federal adjusted gross income had the claimant and/or the claimant's
18 spouse filed a federal tax return, as determined by the county assessor. The
19 county assessor, board of equalization or state tax commission may require
20 documentation of income in such form as each shall determine, including, but
21 not limited to: copies of federal or state tax returns and any attachments
22 thereto; and income reporting forms such as the W-2 and 1099.

23 For determining income for certain married individuals living apart,
24 the provisions of sections 2(c) and 7703(b) of the Internal Revenue Code
25 shall apply.

26 (6) "Occupied" means actual use and possession.

27 (7) "Owner" means a person holding title in fee simple or holding
28 a certificate of motor vehicle title (either of which may be subject to
29 mortgage, deed of trust or other lien) or who has retained or been granted a
30 life estate or who is a person entitled to file a claim under section 63-702,
31 Idaho Code. "Owner" shall also include any person who:

32 (a) Is the beneficiary of a revocable or irrevocable trust which is the
33 owner of such homestead and under which the claimant or the claimant's
34 spouse has the primary right of occupancy of the homestead; or

35 (b) Is a partner of a limited partnership, member of a limited liability
36 company or shareholder of a corporation if such entity holds title in
37 fee simple or holds a certificate of motor vehicle title and if the
38 person holds at least a five percent (5%) ownership in such entity, as
39 determined by the county assessor; or

40 (c) Has retained or been granted a life estate.

41 "Owner" includes a vendee in possession under a land sale contract. Any
42 partial ownership shall be considered as ownership for determining initial
43 qualification for property tax reduction benefits; however, the amount
44 of property tax reduction under section 63-704, Idaho Code, and rules
45 promulgated pursuant to section 63-705, Idaho Code, shall be computed on the
46 value of the claimant's partial ownership. "Partial ownership," for the
47 purposes of this section, means any one (1) person's ownership when property
48 is owned by more than one (1) person or where the homestead is held by an
49 entity, as set forth in this subsection, but more than one (1) person has the
50 right of occupancy of such homestead. A person holding either partial title

1 in fee simple or holding a certificate of motor vehicle title together with
2 another person but who does not occupy the dwelling as his primary dwelling
3 place, shall not be considered an owner for purposes of this section, if such
4 person is a cosignatory of a note secured by the dwelling in question and at
5 least one (1) of the other cosignatories of the note occupies the dwelling
6 as his primary dwelling place. The combined community property interests
7 of both spouses shall not be considered partial ownership so long as the
8 combined community property interests constitute the entire ownership of
9 the homestead, including where the spouses are occupying a homestead owned
10 by an entity, as set forth in this subsection, and the spouses have the
11 primary right of occupancy of the homestead. The proportional reduction
12 required under this subsection shall not apply to community property
13 interests. Where title to property was held by a person who has died without
14 timely filing a claim for property tax reduction, the estate of the deceased
15 person shall be the "owner," provided that the time periods during which the
16 deceased person held such title shall be attributed to the estate for the
17 computation of any time periods under subsection (8) (a) or (8) (b) of this
18 section.

19 (8) (a) "Primary dwelling place" means the claimant's dwelling place
20 on January 1 or before April 15 of the year for which the claim is
21 made. The primary dwelling place is the single place where a claimant
22 has his true, fixed and permanent home and principal establishment,
23 and to which whenever the individual is absent he has the intention
24 of returning. A claimant must establish the dwelling to which the
25 claim relates to be his primary dwelling place by clear and convincing
26 evidence or by establishing that the dwelling is where the claimant
27 resided on January 1 or before April 15 and:

28 (i) At least six (6) months during the prior year; or

29 (ii) The majority of the time the claimant owned the dwelling if
30 owned by the claimant less than one (1) year; or

31 (iii) The majority of the time after the claimant first occupied
32 the dwelling if occupied by the claimant for less than one (1)
33 year. The county assessor may require written or other proof of
34 the foregoing in such form as the county assessor may determine.

35 (b) Notwithstanding the provisions of paragraph (a) of this
36 subsection, the property upon which the claimant makes application
37 shall be deemed to be the claimant's primary dwelling place if the
38 claimant is otherwise qualified and resides in a care facility and does
39 not allow the property upon which the claimant has made application to
40 be occupied by persons paying a consideration to occupy the dwelling.
41 Payment of utilities shall not be payment of a consideration to occupy
42 the dwelling. A claimant's spouse who resides in a care facility shall
43 be deemed to reside at the claimant's primary dwelling place and to
44 be a part of the claimant's household. A care facility is a hospital,
45 nursing facility or intermediate care facility for ~~the mentally~~
46 retarded people with intellectual disabilities as defined in section
47 39-1301, Idaho Code, or a facility as defined in section 39-3302(14),
48 Idaho Code, or a dwelling other than the one upon which the applicant
49 makes application where a claimant who is unable to reside in the

1 dwelling upon which the application is made lives and receives help in
2 daily living, protection and security.

3 SECTION 57. That Section 66-329, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 66-329. COMMITMENT TO DEPARTMENT DIRECTOR UPON COURT ORDER --
6 JUDICIAL PROCEDURE. (1) Proceedings for the involuntary care and treatment
7 of mentally ill persons by the department of health and welfare may be
8 commenced by the filing of a written application with a court of competent
9 jurisdiction by a friend, relative, spouse or guardian of the proposed
10 patient, or by a licensed physician, prosecuting attorney, or other public
11 official of a municipality, county or of the state of Idaho, or the director
12 of any facility in which such patient may be.

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

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

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

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

12 (6) Upon receipt of such application and designated examiners' reports
13 the court shall appoint a time and place for hearing not more than seven (7)
14 days from the receipt of such designated examiners' reports and thereupon
15 give written notice of such time and place of such hearing together with a
16 copy of the application, designated examiner's certificates, and notice
17 of the proposed patient's right to be represented by an attorney, or if
18 indigent, to be represented by a court-appointed attorney, to the applicant,
19 to the proposed patient, to the proposed patient's spouse, guardian, next of
20 kin or friend. With the consent of the proposed patient and his attorney,
21 the hearing may be held immediately. Upon motion of the proposed patient and
22 attorney and for good cause shown, the court may continue the hearing up to an
23 additional fourteen (14) days during which time, for good cause shown, the
24 court may authorize treatment.

25 (7) An opportunity to be represented by counsel shall be afforded to
26 every proposed patient, and if neither the proposed patient nor others
27 provide counsel, the court shall appoint counsel in accordance with chapter
28 8, title 19, Idaho Code, no later than the time the application is received
29 by the court.

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

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

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

1 procedure. The court shall receive all relevant and material evidence
2 consistent with the rules of evidence.

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

8 (a) ~~is~~ is mentally ill; and

9 (b) ~~is~~ is, because of such condition, likely to injure himself or others,
10 or is gravely disabled due to mental illness;
11 the court shall order the proposed patient committed to the custody
12 of the department director for observation, care and treatment for an
13 indeterminate period of time not to exceed one (1) year. The department
14 director, through his dispositioner, shall determine within twenty-four
15 (24) hours the least restrictive available facility or outpatient
16 treatment, consistent with the needs of each patient committed under
17 this section for observation, care, and treatment.

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

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

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

33 the department director through his dispositioner shall cause the committed
34 patient to be transported by the department of health and welfare, law
35 enforcement, or director of a facility to the least restrictive available
36 facility for observation, care and treatment on an inpatient basis.
37 Within forty-eight (48) hours of a committed patient's transfer from
38 outpatient treatment to a facility for inpatient treatment, the department
39 director through his dispositioner shall notify the court that originally
40 ordered the commitment, the committed patient's attorney, and either the
41 committed patient's spouse, guardian, adult next of kin or friend of the
42 change in disposition and provide a detailed affidavit reciting the facts
43 and circumstances supporting the transfer from outpatient treatment to
44 inpatient treatment at a facility. The court shall conduct an ex parte
45 review of the notice and affidavit within forty-eight (48) hours of filing
46 and determine whether the change in disposition from outpatient treatment
47 to inpatient treatment at a facility is supported by probable cause. In
48 no event shall the calculation of forty-eight (48) hours provided for in
49 this subsection include holidays formally recognized and observed by the
50 state of Idaho, nor shall the calculation include weekends. If the court

1 determines that probable cause exists, the department director through his
2 dispositioner shall continue with care and treatment on an inpatient basis
3 at the least restrictive available facility. Within twenty-four (24) hours
4 of a finding of probable cause, the court shall issue an order to show cause
5 why the patient does not meet the conditions in subsection (12) (a) or (12) (b)
6 of this section. The order shall be served on the committed patient, the
7 committed patient's attorney and either the committed patient's spouse,
8 guardian, adult next of kin or friend. The patient shall have fifteen
9 (15) days to present evidence that the conditions in subsection (12) (a) or
10 (12) (b) of this section have not been met. In no event shall the calculation
11 of twenty-four (24) hours provided for in this subsection include holidays
12 formally recognized and observed by the state of Idaho, nor shall the
13 calculation include weekends. If the court determines that a change in
14 disposition from outpatient treatment to inpatient treatment does not
15 meet the conditions in subsection (12) (a) or (12) (b) of this section, the
16 department director through his dispositioner will continue with outpatient
17 treatment on the same or modified terms and conditions. Nothing provided
18 in this section shall limit the authority of any law enforcement officer to
19 detain a patient pursuant to the emergency authority conferred by section
20 66-326, Idaho Code.

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

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

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

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

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

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

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

1 SECTION 58. That Section 66-401, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 66-401. LEGISLATIVE INTENT. It is hereby declared by the legislature
4 of the state of Idaho in enacting chapter 4, title 66, Idaho Code, that
5 the ~~developmentally handicapped~~ citizens of ~~the state~~ Idaho who have
6 developmental disabilities are entitled to be diagnosed, cared for, and
7 treated in a manner consistent with their legal rights in a manner no
8 more restrictive than for their protection and the protection of society,
9 for a period no longer than reasonably necessary for diagnosis, care,
10 treatment and protection, and to remain at liberty or be cared for privately
11 except when necessary for their protection or the protection of society.
12 Recognizing that every individual has unique needs and differing abilities,
13 it is the purpose of the provisions of this chapter to promote the general
14 welfare of all citizens by establishing a system which permits partially
15 disabled and disabled persons to participate as fully as possible in all
16 decisions which affect them, which assists such persons in meeting the
17 essential requirements for their physical health and safety, protecting
18 their rights, managing their financial resources, and developing or
19 regaining their abilities to the maximum extent possible. The provisions of
20 this chapter shall be liberally construed to accomplish these purposes.

21 SECTION 59. That Section 66-402, Idaho Code, be, and the same is hereby
22 amended to read as follows:

23 66-402. DEFINITIONS. As used in this chapter:

24 (1) "Adult" means an individual eighteen (18) years of age or older.

25 (2) "Artificial life-sustaining procedures" means any medical
26 procedure or intervention which utilizes mechanical means to sustain or
27 supplant a vital function. Artificial life-sustaining procedures shall
28 not include the administration of medication, and it shall not include the
29 performance of any medical procedure deemed necessary to alleviate pain, or
30 any procedure which could be expected to result in the recovery or long-term
31 survival of the patient and his restoration to consciousness.

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

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

35 (5) "Developmental disability" means a chronic disability of a person
36 which appears before the age of twenty-two (22) years of age and:

37 (a) Is attributable to an impairment, such as ~~mental retardation~~
38 intellectual disability, cerebral palsy, epilepsy, autism or other
39 condition found to be closely related to or similar to one (1) of
40 these impairments that requires similar treatment or services, or is
41 attributable to dyslexia resulting from such impairments; and

42 (b) Results in substantial functional limitations in three (3) or more
43 of the following areas of major life activity: self-care, receptive and
44 expressive language, learning, mobility, self-direction, capacity for
45 independent living, or economic self-sufficiency; and

46 (c) Reflects the need for a combination and sequence of special,
47 interdisciplinary or generic care, treatment or other services which

1 are of lifelong or extended duration and individually planned and
2 coordinated.

3 (6) "Emancipated minor" means an individual between fourteen (14)
4 and eighteen (18) years of age who has been married or whose circumstances
5 indicate that the parent-child relationship has been renounced.

6 (7) "Evaluation committee" means an interdisciplinary team of at
7 least three (3) individuals designated by the director or his designee to
8 evaluate an individual as required by the provisions of this chapter. Each
9 committee must include a physician licensed to practice medicine in the
10 state of Idaho, a licensed social worker and a clinical psychologist or such
11 other individual who has a master's degree in psychology as designated by
12 the department director. Each committee member must be specially qualified
13 by training and experience in the diagnosis and treatment of persons with a
14 developmental disability.

15 (8) "Facility" means the Idaho state school and hospital, a nursing
16 facility, an intermediate care facility, an intermediate care facility for
17 ~~the mentally retarded~~ people with intellectual disabilities, a licensed
18 residential or assisted living facility, a group foster home, other
19 organizations licensed to provide twenty-four (24) hour care, treatment
20 and training to the developmentally disabled, a mental health center, or an
21 adult and child development center.

22 (9) "Lacks capacity to make informed decisions" means the inability, by
23 reason of developmental disability, to achieve a rudimentary understanding
24 of the purpose, nature, and possible risks and benefits of a decision,
25 after conscientious efforts at explanation, but shall not be evidenced by
26 improvident decisions within the discretion allowed nondevelopmentally
27 disabled individuals.

28 (10) "Likely to injure himself or others" means:

29 (a) A substantial risk that physical harm will be inflicted by the
30 respondent upon his own person as evidenced by threats or attempts to
31 commit suicide or inflict physical harm on himself; or

32 (b) A substantial risk that physical harm will be inflicted by the
33 respondent upon another as evidenced by behavior which has caused such
34 harm or which places another person or persons in reasonable fear of
35 sustaining such harm; or

36 (c) That the respondent is unable to meet essential requirements for
37 physical health or safety.

38 (11) "Manage financial resources" means the actions necessary to
39 obtain, administer and dispose of real, personal, intangible or business
40 property, benefits and/or income.

41 (12) "Meet essential requirements for physical health or safety" means
42 the actions necessary to provide health care, food, clothing, shelter,
43 personal hygiene and/or other care without which serious physical injury or
44 illness would occur.

45 (13) "Minor" means an individual seventeen (17) years of age or less.

46 (14) "Protection and advocacy system" means the agency designated by
47 the governor of the state of Idaho to provide advocacy services for people
48 with disabilities pursuant to 42 USC section 6042.

49 (15) "Respondent" means the individual subject to judicial proceedings
50 authorized by the provisions of this chapter.

1 SECTION 60. That Section 66-408, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 66-408. PETITION FOR REEXAMINATION OF ORDER OF GUARDIANSHIP OR
4 COMMITMENT. All respondents admitted to a residential facility upon
5 application of their parent or guardian or committed to the director shall be
6 entitled to an annual review of their placement by an evaluation committee
7 upon request therefor by the respondent, the respondent's guardian or
8 attorney. In addition, all respondents committed pursuant to section
9 66-406, Idaho Code, or for whom an order for guardianship or conservatorship
10 has been issued pursuant to section 66-405, Idaho Code, shall be entitled
11 to a reexamination of the order for or conditions of their commitment,
12 guardianship or conservatorship on their own petition, or that of their
13 legal guardian, parent, attorney or friend, to the district court of the
14 county in which the order was issued or in which they are found. Upon receipt
15 of the petition, the court shall determine whether the conditions justifying
16 the order or its conditions continue to exist. ~~Within three (3) years of~~
17 ~~the effective date of this chapter, the department shall petition for the~~
18 ~~reexamination of all individuals committed prior to the effective date of~~
19 ~~this chapter as being mentally retarded or mentally deficient and whose~~
20 ~~commitments have not been terminated.~~

21 SECTION 61. That Section 67-2319, Idaho Code, be, and the same is hereby
22 amended to read as follows:

23 67-2319. PURCHASING PRODUCTS OF REHABILITATION FACILITIES. Products
24 which are manufactured by and services which are provided for nonprofit
25 corporations and public agencies operating rehabilitation facilities
26 serving ~~the handicapped~~ people with disabilities and disadvantaged
27 people and offered for sale at the fair market price as determined by
28 the administrator of the division of purchasing which meet the specific
29 requirement for such products may be procured by the state agencies or
30 departments or any political subdivision of the state from such nonprofit
31 corporations or public agencies without advertising or calling for bids.

32 SECTION 62. That Section 67-6530, Idaho Code, be, and the same is hereby
33 amended to read as follows:

34 67-6530. DECLARATION OF PURPOSE. The legislature declares that it
35 is the policy of this state that ~~mentally and/or physically handicapped~~
36 persons with disabilities or elderly persons are entitled to live in normal
37 residential surroundings and should not be excluded therefrom because
38 of their disability or advanced age, and in order to achieve statewide
39 implementation of such policy it is necessary to establish the statewide
40 policy that the use of property for the care of eight (8) or fewer ~~mentally~~
41 ~~and/or physically handicapped~~ persons with disabilities or elderly persons
42 is a residential use of such property for the purposes of local zoning.

43 SECTION 63. That Section 67-6531, Idaho Code, be, and the same is hereby
44 amended to read as follows:

1 67-6531. SINGLE FAMILY DWELLING. (~~a~~1) For the purpose of any zoning
 2 law, ordinance or code, the classification "single family dwelling" shall
 3 include any group residence in which eight (8) or fewer unrelated ~~mentally~~
 4 ~~and/or physically handicapped~~ persons with disabilities or elderly persons
 5 reside and who are supervised at the group residence in connection with their
 6 ~~handicap~~ disability or age related infirmity.

7 (~~b~~2) Resident staff, if employed, need not be related to each other
 8 or to any of the ~~mentally and/or physically handicapped~~ persons with
 9 disabilities or elderly persons residing in the group residence.

10 (~~e~~3) No more than two (2) of such staff shall reside in the dwelling at
 11 any one time.

12 SECTION 64. That Section 67-6532, Idaho Code, be, and the same is hereby
 13 amended to read as follows:

14 67-6532. LICENSURE, STANDARDS AND RESTRICTIONS. (~~a~~1) The department
 15 of health and welfare may require group residences, as defined in section
 16 67-6531, Idaho Code, to be licensed and set minimum standards for providing
 17 services or operation. Such licensure may be under the residential or
 18 assisted living facility rules, or under the intermediate care facilities
 19 for ~~mentally retarded~~ people with intellectual disabilities or related
 20 conditions rules, or under rules specifically written for such group
 21 residences.

22 (~~b~~2) No conditional use permit, zoning variance, or other zoning
 23 clearance shall be required of a group residence, as defined in section
 24 67-6531, Idaho Code, which is not required of a single family dwelling in the
 25 same zone.

26 (~~e~~3) No local ordinances or local restrictions shall be applied to or
 27 required for a group residence, as defined in section 67-6531, Idaho Code,
 28 which is not applied to or required for a single family dwelling in the same
 29 zone.

30 (~~d~~4) The limitations provided for in subsections (~~b~~2) and (~~e~~3) of this
 31 section shall not apply to tenancy or planned tenancy in a group residence,
 32 as defined in section 67-6531, Idaho Code, by persons who are under the
 33 supervision of the state board of correction pursuant to section 20-219,
 34 Idaho Code, or who are required to register pursuant to chapter 83 or 84,
 35 title 18, Idaho Code, or whose tenancy would otherwise constitute a direct
 36 threat to the health or safety of other individuals or whose tenancy would
 37 result in substantial physical damage to the property of others.

38 SECTION 65. That Section 67-6901, Idaho Code, be, and the same is hereby
 39 amended to read as follows:

40 67-6901. STATEMENT OF PUBLIC POLICY. It is the policy of this state to
 41 encourage and enable ~~the physically and mentally handicapped~~ people with
 42 disabilities to participate fully in the social and economic life of the
 43 state and to engage in remunerative employment.

44 SECTION 66. That Section 67-6902, Idaho Code, be, and the same is hereby
 45 amended to read as follows:

1 67-6902. DEFINITIONS. As used in this chapter:

2 (1) ~~"Public buildings" means all county courthouses, and all city~~
 3 ~~halls and buildings used primarily as governmental offices of the state~~
 4 ~~or any county or city. It does not include public schools or buildings~~
 5 ~~or institutions of higher education or professional technical training,~~
 6 ~~buildings of the department of health and welfare, facilities of the state~~
 7 ~~board of correction or the state capitol building. "Disabled" or "person~~
 8 ~~with disability" means:~~

9 (a) A person who has a physical or mental impairment which
 10 substantially limits one (1) or more major life activities (e.g.,
 11 communication, ambulation, self-care, socialization, education,
 12 vocational training, transportation or employment);

13 (b) A person who has a record of such an impairment and the impairment is
 14 expected to continue indefinitely;

15 (c) A person who is regarded or treated by others as having such an
 16 impairment;

17 (d) Persons including, but not limited to, persons who are blind,
 18 deaf or who have epilepsy, autism, intellectual disabilities or mental
 19 illness or who have orthopedic disorders or cerebral palsy.

20 (2) "Food service facilities" includes restaurants, cafeterias, snack
 21 bars, and goods and services customarily offered in connection with any of
 22 the foregoing, and also includes vending machines dispensing foods when
 23 operated independently or in conjunction with such facilities.

24 ~~(3) "Handicapped" means:~~

25 ~~(a) A person who has a physical or mental impairment which~~
 26 ~~substantially limits one (1) or more major life activities (e.g.~~
 27 ~~communication, ambulation, self care, socialization, education,~~
 28 ~~vocational training, transportation or employment);~~

29 ~~(b) A person who has a record of such an impairment and the impairment is~~
 30 ~~expected to continue indefinitely;~~

31 ~~(c) A person who is regarded or treated by others as having such an~~
 32 ~~impairment;~~

33 ~~(d) Persons including, but not limited to, persons who are blind, deaf,~~
 34 ~~epileptic, autistic, mentally retarded or mentally ill or who have~~
 35 ~~orthopedic disorders or cerebral palsy.~~

36 ~~(4) "Nonprofit organization representing the handicapped persons~~
 37 ~~with disabilities" means tax exempt organizations as defined under section~~
 38 ~~501(c) (3) of the Internal Revenue Code and includes the Idaho commission for~~
 39 ~~the blind and visually impaired.~~

40 (4) "Public buildings" means all county courthouses, and all city
 41 halls and buildings used primarily as governmental offices of the state
 42 or any county or city. It does not include public schools or buildings
 43 or institutions of higher education or professional-technical training,
 44 buildings of the department of health and welfare, facilities of the state
 45 board of correction or the state capitol building.

46 SECTION 67. That Section 67-6903, Idaho Code, be, and the same is hereby
 47 amended to read as follows:

48 67-6903. FOOD SERVICE FACILITIES IN PUBLIC BUILDINGS. Any
 49 governmental agency which proposes to allow, to operate or to continue a

1 food service facility in a public building shall first attempt, in good
 2 faith, to notify nonprofit organizations representing ~~handicapped~~
 3 with disabilities of the opportunity to operate a food service. If more
 4 than one (1) organization responds, the governmental agency shall establish
 5 reasonable criteria and shall select on the basis of that criteria from the
 6 proposals submitted. Criteria adopted by a governmental agency pursuant to
 7 this section, and used as a basis for selection among proposals submitted,
 8 shall include the requirement that proposals submitted by the Idaho
 9 commission for the blind and visually impaired shall have priority over all
 10 other proposals submitted. Proposals submitted by nonprofit organizations
 11 representing ~~the handicapped~~ persons with disabilities, other than the
 12 Idaho commission for the blind and visually impaired, shall receive priority
 13 over all other proposals except proposals submitted by the Idaho commission
 14 for the blind and visually impaired. A food service facility shall be
 15 operated without payment of rent. The governmental agency shall not offer or
 16 grant any other party a contract or concession to operate such food service
 17 facility unless the governmental agency determines in good faith that no
 18 nonprofit organization representing ~~handicapped~~ persons with disabilities
 19 is willing or able to provide satisfactory food service.

20 SECTION 68. That Section 68-1301, Idaho Code, be, and the same is hereby
 21 amended to read as follows:

22 68-1301. DEFINITIONS. As used in this chapter:

23 (1) "Adult" means an individual who is at least eighteen (18) years of
 24 age.

25 (2) "Beneficiary" means an individual for whom property has been
 26 transferred to or held under a declaration of trust by a custodial trustee
 27 for the individual's use and benefit under this chapter.

28 (3) "Conservator" means a person appointed or qualified by a court to
 29 manage the estate of an individual or a person legally authorized to perform
 30 substantially the same functions.

31 (4) "Court" means the district court of this state.

32 (5) "Custodial trust property" means an interest in property
 33 transferred to or held under a declaration of trust by a custodial trustee
 34 under this chapter and the income from and proceeds of that interest.

35 (6) "Custodial trustee" means a person designated as trustee of a
 36 custodial trust under this chapter or a substitute or successor to the person
 37 designated.

38 (7) "Guardian" means a person appointed or qualified by a court as a
 39 guardian of an individual, including a limited guardian, but not a person who
 40 is only a guardian ad litem.

41 (8) "Incapacitated" means lacking the ability to manage property and
 42 business affairs effectively by reason of mental illness, mental ~~deficiency~~
 43 disability, physical illness or disability, chronic use of drugs, chronic
 44 intoxication, confinement, detention by a foreign power, disappearance,
 45 minority, or other disabling cause.

46 (9) "Legal representative" means a personal representative or
 47 conservator.

1 (10) "Member of the beneficiary's family" means a beneficiary's
2 spouse, descendant, stepchild, parent, stepparent, grandparent, brother,
3 sister, uncle, or aunt, whether of the whole or half blood or by adoption.

4 (11) "Person" means an individual, corporation, business trust,
5 estate, trust, partnership, joint venture, association, or any other legal
6 or commercial entity.

7 (12) "Personal representative" means an executor, administrator, or
8 special administrator of a decedent's estate, a person legally authorized
9 to perform substantially the same functions, or a successor to any of them.

10 (13) "State" means a state, territory, or possession of the United
11 States, the District of Columbia, or the Commonwealth of Puerto Rico.

12 (14) "Transferor" means a person who creates a custodial trust by
13 transfer or declaration.

14 (15) "Trust company" means a financial institution, corporation, or
15 other legal entity, authorized to exercise general trust powers.

16 SECTION 69. That Section 68-1405, Idaho Code, be, and the same is hereby
17 amended to read as follows:

18 68-1405. SPECIAL NEEDS TRUSTS -- REQUIREMENTS -- JURISDICTION OF
19 COURT -- COURT ORDERS. (1) If a court orders that money of a minor or
20 incompetent person be paid to a special needs trust, the terms of the
21 trust shall be reviewed and approved by the court and shall satisfy the
22 requirements of this section. The trust shall be subject to the continuing
23 jurisdiction of the court, and is subject to court supervision to the extent
24 determined by the court. The court may transfer jurisdiction to the court in
25 the county where the minor or incompetent person resides.

26 (2) A special needs trust may be established and continued under this
27 section only if the court determines all of the following:

28 (a) That the minor or incompetent person has a disability that
29 substantially impairs the individual's ability to provide for the
30 individual's own care or custody ~~and constitutes a substantial~~
31 ~~handicap;~~

32 (b) That the minor or incompetent person is likely to have special needs
33 that will not be met without the trust; and

34 (c) That money to be paid to the trust does not exceed the amount that
35 appears reasonably necessary to meet the special needs of the minor or
36 incompetent person.

37 (3) If at any time it appears that:

38 (a) Any of the requirements of this section are not satisfied or the
39 trustee refuses without good cause to make payments from the trust for
40 the special needs of the beneficiary; and

41 (b) That the Idaho department of health and welfare or a county or
42 city in this state has a claim against trust property, then the Idaho
43 department of health and welfare, the county or the city may petition
44 the court for an order terminating the trust.

45 (4) A court order for payment of money or property to a special needs
46 trust shall include a provision that all statutory liens properly perfected
47 at the time of the court's order, and in favor of the Idaho department of
48 health and welfare or any county or city of this state, shall be satisfied
49 first.

1 SECTION 70. That Section 71-241, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 71-241. PETROLEUM PRODUCTS -- HOW SOLD -- MEASUREMENT. (1) All
4 petroleum products shall be sold by liquid measure or by net weight in
5 accordance with the provisions of section 71-232, Idaho Code, and in
6 accordance with regulations to be made by the director.

7 (2) Sellers of motor fuel within this state shall offer to prospective
8 purchasers the option to buy the product either by gross gallons or on
9 the assumption that the temperature of the product is sixty degrees (60°)
10 fahrenheit or the centigrade equivalent. This purchaser option may be
11 exercised only on an annual basis and applied only to single deliveries
12 of eight thousand (8,000) gallons or more or the metric equivalent. Any
13 adjustments to volumes during the temperature compensation process shall be
14 made in accordance with the standards set by the American society of testing
15 materials.

16 (3) The department of agriculture may purchase and use measuring
17 devices for monitoring bulk deliveries.

18 (4) Any retail outlet offering self-dispensed motor fuels only shall,
19 upon request of the disabled driver, provide assistance in delivering fuel
20 into the tank of a vehicle displaying ~~a handicapped~~ an accessible parking
21 license or card, but this requirement shall not apply when such vehicle
22 carries an able-bodied adult or if only one (1) attendant is on duty at the
23 retail outlet. Disabled individuals receiving this refueling service at
24 a self-service pump shall not be charged more than the self-service price
25 for the fuel. Notice of the availability of this service shall be posted
26 pursuant to the provisions of subsection (5) (b) of this section. A violation
27 of the provisions of this subsection shall be an infraction.

28 (5) Any retail outlet offering both attendant-dispensed motor
29 fuels and self-dispensed motor fuels will, during those hours that
30 attendant-dispensed motor fuels are available, provide attendant-dispensed
31 motor fuels at the same price as for self-dispensed motor fuels when such
32 fuel is delivered at the self-service pump into the fuel tank of a vehicle
33 displaying ~~a handicapped~~ an accessible parking license or card, but this
34 requirement shall not apply when such vehicle carries an able-bodied adult.

35 (a) Notification of the provisions of subsections (4) and (5) of this
36 section shall be provided, by the Idaho transportation department, to
37 all operators of facilities offering gasoline or other motor vehicle
38 fuels for sale, and to every person who is issued ~~a handicapped~~ an
39 accessible parking plate or a disabled veterans registration plate, or
40 other authorized designation.

41 (b) The following notice shall be provided by the Idaho transportation
42 department and posted in a manner and location which is visible to any
43 driver seeking refueling service. The notice shall be a placard in
44 substantially the following format, printed in black except that the
45 international accessible symbol shall be printed in blue.

46 WHEN THERE ARE TWO OR MORE
47 EMPLOYEES ON DUTY
48 THIS STATION WILL



PUMP YOUR GAS
Idaho Code Section 71-241

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2

3 SECTION 71. That Section 72-430, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 72-430. PERMANENT DISABILITY -- DETERMINATION OF -- PERCENTAGES
6 -- SCHEDULE. (1) Matters to be considered. In determining percentages
7 of permanent disabilities, account shall be taken of the nature of the
8 physical disablement, the disfigurement if of a kind likely to ~~handicap~~
9 limit the employee in procuring or holding employment, the cumulative effect
10 of multiple injuries, the occupation of the employee, and his age at the
11 time of accident causing the injury, or manifestation of the occupational
12 disease, consideration being given to the diminished ability of the
13 afflicted employee to compete in an open labor market within a reasonable
14 geographical area considering all the personal and economic circumstances
15 of the employee, and other factors as the commission may deem relevant,
16 provided that when a scheduled or unscheduled income benefit is paid or
17 payable for the permanent partial or total loss or loss of use of a member or
18 organ of the body no additional benefit shall be payable for disfigurement.

19 (2) Preparation of schedules--Availability for inspection--Prima
20 facie evidence. The commission may prepare, adopt and from time to time
21 amend a schedule for the determination of the percentages of unscheduled
22 permanent injuries less than total, including, but not limited to, a
23 schedule for partial loss of binaural hearing and for loss of teeth, and
24 methods for determination thereof. Such schedule shall be available for
25 public inspection, and without formal introduction in evidence shall be
26 prima facie evidence of the percentages of permanent disabilities to be
27 attributed to the injuries or diseases covered by such schedule.

28 SECTION 72. That Section 72-1316A, Idaho Code, be, and the same is
29 hereby amended to read as follows:

30 72-1316A. EXEMPT EMPLOYMENT. "Exempt employment" means service
31 performed:

32 (1) By an individual in the employ of his spouse or child.

33 (2) By a person under the age of twenty-one (21) years in the employ of
34 his father or mother.

35 (3) By an individual under the age of twenty-two (22) years who is
36 enrolled as a student in a full-time program at an accredited nonprofit or
37 public education institution for which credit at such institution is earned
38 in a program which combines academic instruction with work experience. This

1 subsection shall not apply to service performed in a program established at
2 the request of an employer or group of employers.

3 (4) In the employ of the United States government or an instrumentality
4 of the United States exempt under the constitution of the United States from
5 the contributions imposed by this chapter.

6 (5) In the employ of a governmental entity in the exercise of duties:

7 (a) As an elected official;

8 (b) As a member of a legislative body, or a member of the judiciary, of a
9 state or political subdivision thereof;

10 (c) As a member of the state national guard or air national guard;

11 (d) As an employee serving on a temporary basis in case of fire, storm,
12 snow, earthquake, flood, or similar emergency; or

13 (e) In a position which, pursuant to the laws of this state, is
14 designated as (i) a major nontenured policymaking or advisory position,
15 or (ii) a policymaking or advisory position which ordinarily does not
16 require more than eight (8) hours per week.

17 (6) By an inmate of a correctional, custodial or penal institution, if
18 such services are performed for or within such institution.

19 (7) In the employ of:

20 (a) A church or convention or association of churches; or

21 (b) An organization which is operated primarily for religious
22 purposes and which is operated, supervised, controlled, or principally
23 supported by a church, or convention or association of churches; or

24 (c) In the employ of an institution of higher education, if it is
25 devoted primarily to preparation of a student for the ministry or
26 training candidates to become members of a religious order; or

27 (d) By a duly ordained, commissioned, or licensed minister of a church
28 in the exercise of his ministry or by a member of a religious order in the
29 exercise of duties required by such order.

30 (8) By a program participant in a facility that provides rehabilitation
31 for individuals whose earning capacity is impaired by age, physical or
32 mental ~~deficiency~~ limitation, or injury or provides remunerative work for
33 individuals who, because of their impaired physical or mental capacity,
34 cannot be readily absorbed into the labor market.

35 (9) As part of an unemployment work relief program or as part of an
36 unemployment work training program assisted or financed in whole or in
37 part by any federal agency or an agency of a state or political subdivision
38 thereof, by an individual receiving such work relief or work training.

39 (10) Service with respect to which unemployment insurance is payable
40 under an unemployment insurance system established by an act of congress
41 other than the social security act.

42 (11) As a student nurse in the employ of a hospital or nurses' training
43 school by an individual who is enrolled and is regularly attending courses
44 in a nurses' training school approved pursuant to state law, and service
45 performed as an intern in the employ of a hospital by an individual who has
46 completed a course in a medical school approved pursuant to state law.

47 (12) By an individual under the age of eighteen (18) years of age
48 in the delivery or distribution of newspapers or shopping news not
49 including delivery or distribution to any point for subsequent delivery or
50 distribution.

1 (13) By an individual for a person as an insurance agent or as an
 2 insurance solicitor, if all such service performed by such individual for
 3 such person is performed for remuneration solely by way of commission.

4 (14) By an individual for a real estate broker as an associate real
 5 estate broker or as a real estate salesman, if all such service performed by
 6 such individual for such person is performed for remuneration solely by way
 7 of commission.

8 (15) Service covered by an election approved by the agency charged with
 9 the administration of any other state or federal unemployment insurance law,
 10 in accordance with an arrangement pursuant to section 72-1344, Idaho Code.

11 (16) In the employ of a school or college by a student who is enrolled and
 12 regularly attending classes at such school or college.

13 (17) In the employ of a hospital by a resident patient of such hospital.

14 (18) By a member of an AmeriCorps program.

15 (19) By an individual who is paid less than fifty dollars (\$50.00)
 16 per calendar quarter for performing work that is not in the course of the
 17 employer's trade or business, and who is not regularly employed by such
 18 employer to perform such service. For the purposes of this subsection, an
 19 individual shall be deemed to be regularly employed by an employer during a
 20 calendar quarter only if:

21 (a) On each of some twenty-four (24) days during such quarter such
 22 individual performs for such employer for some portion of the day
 23 service not in the course of the employer's trade or business; or

24 (b) Such individual was so employed by such employer in the performance
 25 of such service during the preceding calendar quarter.

26 (20) By an individual who is engaged in the trade or business of selling
 27 or soliciting the sale of consumer products in a private home or a location
 28 other than in a permanent retail establishment, provided the following
 29 criteria are met:

30 (a) Substantially all the remuneration, whether or not received in
 31 cash, for the performance of the services is directly related to sales
 32 or other output, including the performance of services, rather than to
 33 the number of hours worked; and

34 (b) The services performed by the individual are performed pursuant to
 35 a written contract between the individual and the person for whom the
 36 services are performed, and the contract provides that the individual
 37 shall not be treated as an employee for federal and state tax purposes.

38 Such exemption applies solely to the individual's engagement in the trade or
 39 business of selling or soliciting the sale of consumer products in a private
 40 home or location other than in a permanent retail establishment.

41 SECTION 73. That Section 73-114, Idaho Code, be, and the same is hereby
 42 amended to read as follows:

43 73-114. STATUTORY TERMS DEFINED. (1) Unless otherwise defined for
 44 purposes of a specific statute, 7:

45 (a) ~~W~~ords used in these compiled laws in the present tense, include the
 46 future as well as the present;

47 (b) ~~W~~ords used in the masculine gender, include the feminine and
 48 neuter;

1 (c) The singular number includes the plural and the plural the
 2 singular;

3 (d) The word "person" includes a corporation as well as a natural
 4 person;

5 (e) Writing includes printing;

6 (f) Oath includes affirmation or declaration, and every mode of
 7 oral statement, under oath or affirmation, is embraced by the term
 8 "testify," and every written one in the term "depose";

9 (g) Signature or subscription includes mark, when the person cannot
 10 write, his name being written near it, and witnessed by a person who
 11 writes his own name as a witness.

12 (2) The following words have, in the compiled laws, the signification
 13 attached to them in this section, unless otherwise apparent from the
 14 context:

15 (a) "Intellectual disability" means significantly subaverage
 16 general intellectual functioning that is accompanied by significant
 17 limitations in adaptive functioning in at least two (2) of the following
 18 skill areas: communication, self-care, home living, social or
 19 interpersonal skills, use of community resources, self-direction,
 20 functional academic skills, work, leisure, health and safety. The
 21 onset of significantly subaverage general intelligence functioning and
 22 significant limitations in adaptive functioning must occur before age
 23 eighteen (18) years.

24 (b) "Month" means a calendar month, unless otherwise expressed.

25 (c) "Personal property" includes money, goods, chattels, things in
 26 action, evidences of debt and general intangibles as defined in the
 27 uniform commercial code -- secured transactions.

28 ~~1. (d) The word "Property" includes both real and personal property.~~

29 ~~2. (e) The words "Real property" are is coextensive with lands,~~
 30 ~~tenements and hereditaments, possessory rights and claims.~~

31 ~~3. The words "personal property" include money, goods, chattels,~~
 32 ~~things in action, evidences of debt and general intangibles as defined in the~~
 33 ~~Uniform Commercial Code -- Secured Transactions.~~

34 ~~4. The word "month" means a calendar month, unless otherwise expressed.~~

35 (f) "Registered mail" includes certified mail.

36 (g) "State," when applied to the different parts of the United States,
 37 includes the District of Columbia and the territories; and the words
 38 "United States" may include the District of Columbia and territories.

39 ~~5. (h) The word "Will" includes codicils.~~

40 ~~6. (i) The word "Writ" signifies an order or precept in writing, issued~~
 41 ~~in the name of the people, or of a court or judicial officer, and the~~
 42 ~~word "process," a writ or summons issued in the course of judicial~~
 43 ~~proceedings.~~

44 ~~7. The word "state," when applied to the different parts of the United~~
 45 ~~States, includes the District of Columbia and the territories; and the words~~
 46 ~~"United States" may include the District and territories.~~

47 ~~8. The words "registered mail" include certified mail.~~

48 SECTION 74. That Chapter 1, Title 73, Idaho Code, be, and the same is
 49 hereby amended by the addition thereto of a NEW SECTION, to be known and
 50 designated as Section 73-114A, Idaho Code, and to read as follows:

1 73-114A. LEGISLATIVE INTENT ON RESPECTFUL LANGUAGE. (1) It is the
2 intent of the legislature that the Idaho Code be amended to remove certain
3 archaic language related to the condition of individuals. Certain terms,
4 such as "idiots," "handicap," "retarded," "lunatic" and "deficient,"
5 when applied to individuals, have outlived their usefulness. The term
6 "intellectual disability" as used in this act is intended to replace the term
7 "mental retardation" as previously used in the Idaho Code.

8 (2) The legislature intends that the emphasis should be on people
9 first, rather than on archaic labels. Therefore, any new or amended section
10 of the Idaho Code should incorporate more modern and people first language
11 when referring to the condition of individuals, as used in this act.

12 (3) The legislature further intends that rules promulgated under the
13 administrative procedure act, chapter 52, title 67, Idaho Code, after the
14 effective date of this act, should incorporate more modern and people first
15 language when referring to the condition of individuals, as used in this act.
16 Where appropriate and when the use of more modern and people first language
17 will not substantively change the meaning of a rule, the rules coordinator
18 is encouraged to use the authority provided for in section 67-5202(2),
19 Idaho Code, to replace archaic language in the administrative code with more
20 modern and people first language, as used in this act.

21 (4) This act's substitution of more modern and people first language
22 in place of archaic language when referring to the condition of individuals
23 shall not change the substantive interpretation of the amended Idaho Code
24 sections or the case law interpreting those sections.