

IN THE SENATE

SENATE BILL NO. 1258

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO CODIFIER'S CORRECTIONS; AMENDING SECTION 16-1501, IDAHO CODE,  
2 TO MAKE A CODIFIER'S CORRECTION AND TO MAKE TECHNICAL CORRECTIONS;  
3 AMENDING SECTION 18-5623, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION;  
4 AMENDING SECTION 18-5624, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION;  
5 AMENDING SECTION 19-865, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS;  
6 AMENDING SECTION 23-1003, IDAHO CODE, REMOVE OBSOLETE LANGUAGE AND TO  
7 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 25-3201, IDAHO CODE, TO  
8 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 25-3203, IDAHO CODE, TO  
9 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 28-4-613, IDAHO CODE, TO  
10 MAKE A TECHNICAL CORRECTION; AMENDING SECTION 28-5-120, IDAHO CODE, TO  
11 MAKE A TECHNICAL CORRECTION; AMENDING SECTION 28-41-201, IDAHO CODE, TO  
12 MAKE CODIFIER'S CORRECTIONS AND TO MAKE TECHNICAL CORRECTIONS; AMEND-  
13 ING SECTION 28-44-107, IDAHO CODE, TO MAKE A CODIFIER'S CORRECTION;  
14 AMENDING SECTION 28-49-101, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE;  
15 AMENDING SECTION 28-51-105, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY  
16 AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 30-1-630, IDAHO  
17 CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 30-1-1302,  
18 IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE TECHNICAL COR-  
19 RECTIONS; AMENDING SECTION 30-3-20, IDAHO CODE, TO PROVIDE A CORRECT  
20 CODE REFERENCE; AMENDING SECTION 30-1604, IDAHO CODE, TO MAKE TECHNICAL  
21 CORRECTIONS; AMENDING SECTION 30-1705, IDAHO CODE, TO MAKE TECHNICAL  
22 CORRECTIONS; AMENDING SECTION 31-3403, IDAHO CODE, TO MAKE TECHNICAL  
23 CORRECTIONS; AMENDING SECTION 31-3505, IDAHO CODE, TO MAKE A TECHNICAL  
24 CORRECTION; AMENDING SECTION 31-4819, IDAHO CODE, TO MAKE TECHNICAL  
25 CORRECTIONS; AMENDING SECTION 33-1602, IDAHO CODE, TO MAKE A CODIFIER'S  
26 CORRECTION; AMENDING SECTION 38-1019, IDAHO CODE, TO MAKE A CODIFIER'S  
27 CORRECTION; AMENDING SECTION 40-312, IDAHO CODE, TO MAKE A CODIFIER'S  
28 CORRECTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 40-317,  
29 IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-716,  
30 IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-3813,  
31 IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; REPEALING SECTION 42-1736,  
32 IDAHO CODE, RELATING TO LEGISLATIVE REVIEW OF THE STATE WATER PLAN;  
33 AMENDING SECTION 49-244, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION;  
34 AMENDING SECTION 49-420J, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS;  
35 AMENDING THE HEADING FOR CHAPTER 19, TITLE 49, IDAHO CODE, TO PROVIDE  
36 CORRECT TERMINOLOGY; AMENDING SECTION 54-1218, IDAHO CODE, TO MAKE  
37 TECHNICAL CORRECTIONS; AMENDING SECTION 54-2706, IDAHO CODE, TO MAKE  
38 TECHNICAL CORRECTIONS; AMENDING SECTION 58-310, IDAHO CODE, TO REMOVE  
39 CODE REFERENCES; REPEALING SECTIONS 58-310A AND 58-310B, IDAHO CODE,  
40 RELATING TO LEASES OF LANDS; AND AMENDING SECTION 67-3002, IDAHO CODE,  
41 TO PROVIDE CORRECT TERMINOLOGY.  
42

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

1 SECTION 1. That Section 16-1501, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 16-1501. MINORS AND ADULTS MAY BE ADOPTED. Any minor child may be  
4 adopted by any adult person residing in and having residence in Idaho, in the  
5 cases and subject to the rules prescribed in this chapter.

6 (1) Persons not minors may be adopted by a resident adult in cases where  
7 the person adopting has sustained the relation of parent to such adopted per-  
8 son:

9 (a) For a period in excess of one (1) year while the person was a minor;  
10 or

11 (b) For such period of time or in such manner that the court after inves-  
12 tigation finds a substantial family relationship has been created.

13 (2) Adoptions shall not be denied solely on the basis of the disability  
14 of a prospective adoptive parent. As used in this chapter:

15 (a) "~~Adaptive equipment,~~" ~~for purposes of this chapter,~~ means any piece  
16 of equipment or any item that is used to increase, maintain, or improve  
17 the parenting capabilities of a parent with a disability.

18 (b) "~~Disability,~~" ~~for purposes of this chapter,~~ means, with respect to  
19 an individual, any mental or physical impairment which substantially  
20 limits one (1) or more major life activities of the individual includ-  
21 ing, but not limited to, self-care, manual tasks, walking, seeing,  
22 hearing, speaking, learning, or working, or a record of such an im-  
23 pairment, or being regarded as having such an impairment. Disability  
24 shall not include transvestism, transsexualism, pedophilia, exhibi-  
25 tionism, voyeurism, other sexual behavior disorders, or substance use  
26 disorders, compulsive gambling, kleptomania, or pyromania. Sexual  
27 preference or orientation is not considered an impairment or disabili-  
28 ty. Whether an impairment substantially limits a major life activity  
29 shall be determined without consideration of the effect of corrective  
30 or mitigating measures used to reduce the effects of the impairment.

31 (c) "~~Supportive services,~~" ~~as used in this chapter,~~ means services  
32 which assist a parent with a disability to compensate for those aspects  
33 of their disability which affect their ability to care for their child  
34 and which will enable them to discharge their parental responsibili-  
35 ties. The term includes specialized or adapted training, evaluations,  
36 or assistance with effective use of adaptive equipment, and accommo-  
37 dations which allow a parent with a disability to benefit from other  
38 services, such as Braille texts or sign language interpreters.

39 (3) If applicable, nothing in this chapter shall modify the require-  
40 ments of the Indian child welfare act of 1978, 25 U.S.C. ~~section 1902~~ 1901, et  
41 seq.

42 SECTION 2. That Section 18-5623, Idaho Code, be, and the same is hereby  
43 amended to read as follows:

44 18-5623. PERSONAL PROPERTY -- RIGHTS OF THIRD PARTIES. (1) Within five  
45 (5) days of any of the events specified in section 18-5622, Idaho Code, no-  
46 tice, including a copy of the request for forfeiture, shall be given to each  
47 co-owner or party in interest who has or claims any right, title or interest  
48 in any such personal property according to one (1) of the following methods:

1 (a) Upon each co-owner of or party in interest in a titled motor vehi-  
2 cle, aircraft or other conveyance, by mailing notice by certified mail  
3 to the address of each co-owner and party in interest as given upon the  
4 records of the appropriate department of state or federal government  
5 where records relating to such conveyances are maintained;

6 (b) Upon each secured party and assignee designated as such in any UCC-1  
7 financing statement on file in an appropriate filing office covering  
8 any personal property sought to be forfeited, by mailing notice by  
9 certified mail to the secured party and the assignee, if any, at their  
10 respective addresses as shown on such financing statement; or

11 (c) Upon each co-owner or party in interest whose name and address is  
12 known, by mailing notice by registered mail to the last known address of  
13 such person.

14 (2) Within twenty (20) days after the mailing of the notice, the  
15 co-owner or party in interest may file a verified answer and claim to the  
16 property described in the notice.

17 (3) If a verified answer is filed within twenty (20) days after mailing  
18 of the notice, the forfeiture proceeding against all co-owners and parties  
19 in interest who have filed verified answers shall be set for hearing before  
20 the court without a jury on a day not less than sixty (60) days after the mail-  
21 ing of the notice; and the proceeding shall have priority over other civil  
22 cases.

23 (a) At the hearing, any co-owner or party in interest who has a veri-  
24 fied answer on file may show by competent evidence that his interest in  
25 the titled motor vehicle, aircraft or other conveyance is not subject to  
26 forfeiture because he could not have known in the exercise of reasonable  
27 diligence that the titled motor vehicle, aircraft or other conveyance  
28 was being used, had been used or was intended to be used for the purposes  
29 described in section 18-5612, Idaho Code.

30 (b) A co-owner or claimant of any right, title or interest in the prop-  
31 erty may prove that his right, title or interest, whether under a lien,  
32 mortgage, security agreement, conditional sales contract or otherwise,  
33 was created without any knowledge or reason to believe that the property  
34 was being used, had been used or was intended to be used for the purpose  
35 alleged.

36 (i) In the event of such proof, the court shall order that portion  
37 of the property or interest released to the bona fide or innocent  
38 co-owner, purchaser, lienholder, mortgagee, secured party or con-  
39 ditional sales vendor.

40 (ii) If the amount due to such person is less than the value of the  
41 property, the property may be sold at public auction or in another  
42 commercially reasonable method by the attorney general or appro-  
43 priate prosecuting attorney. If sold at public auction, the at-  
44 torney general or appropriate prosecuting attorney shall publish  
45 a notice of the sale by at least one (1) publication in a newspaper  
46 published and circulated in the city, community or locality where  
47 the sale is to take place at least one (1) week prior to sale of the  
48 property. The proceeds from such sale shall be distributed as fol-  
49 lows in the order indicated:

1 1. To the bona fide or innocent co-owner, purchaser, condi-  
2 tional sales vendor, lienholder, mortgagee or secured party  
3 of the property, if any, up to the value of his interest in  
4 the property;

5 2. The balance, if any, in the following order:

6 (A) To the attorney general or appropriate prosecut-  
7 ing attorney for all expenditures made or incurred in  
8 connection with the sale, including expenditure for  
9 any necessary repairs, storage or transportation of  
10 the property, and for all expenditures made or incurred  
11 by him in connection with the forfeiture proceedings  
12 including, but not limited to, expenditures for wit-  
13 nesses' fees, reporters' fees, transcripts, printing,  
14 traveling and investigation.

15 (B) To the law enforcement agency of this state that  
16 seized the property for all expenditures for travel-  
17 ing, investigation, storage and other expenses made or  
18 incurred after the seizure and in connection with the  
19 forfeiture of any property seized under the provisions  
20 of this chapter.

21 (C) The remainder, if any, to the crime ~~victim's~~  
22 victims compensation account as established in section  
23 72-1009, Idaho Code.

24 (4) Notwithstanding any other provision of this section, upon being  
25 satisfied that the interest of a co-owner or claimant should not be subject  
26 to forfeiture because they neither knew nor should have known that the per-  
27 sonal property was being used or had been used for the purposes alleged, or  
28 that due to preexisting security interests in such property there is no equ-  
29 uity that may be forfeited, the attorney general or appropriate prosecuting  
30 attorney may release the property to the co-owner, holder of the security  
31 interest or other claimant.

32 (5) In any case, the attorney general or appropriate prosecuting attor-  
33 ney may, within thirty (30) days after order of forfeiture, pay the balance  
34 due to the bona fide lienholder, mortgagee, secured party or conditional  
35 sales vendor and thereby purchase the property for use to enforce this chap-  
36 ter.

37 SECTION 3. That Section 18-5624, Idaho Code, be, and the same is hereby  
38 amended to read as follows:

39 18-5624. REAL PROPERTY -- RIGHTS OF THIRD PARTIES. (1) Real property  
40 subject to forfeiture under the provisions of this chapter may be seized by  
41 the attorney general or appropriate prosecuting attorney upon determining  
42 that a parcel of property is subject to forfeiture, by filing a notice of  
43 seizure with the recorder of the county in which the property or any part  
44 thereof is situated. The notice must contain a legal description of the  
45 property sought to be forfeited; provided however, that in the event the  
46 property sought to be forfeited is part of a greater parcel, the attorney  
47 general or appropriate prosecuting attorney may, for the purposes of this  
48 notice, use the legal description of the greater parcel. The attorney gen-  
49 eral or appropriate prosecuting attorney shall also send by certified mail a

1 copy of the notice of seizure to any persons holding a recorded interest or of  
2 whose interest the attorney general or appropriate prosecuting attorney has  
3 actual knowledge. The attorney general or appropriate prosecuting attorney  
4 shall post a similar copy of the notice conspicuously upon the property and  
5 publish a copy thereof once a week for three (3) consecutive weeks immedi-  
6 ately following the seizure in a newspaper published in the county. The  
7 co-owner or party in lawful possession of the property sought to be forfeited  
8 may retain possession and use thereof and may collect and keep income from  
9 the property while the forfeiture proceedings are pending.

10 (2) In the event of a seizure pursuant to subsection (1) of this sec-  
11 tion, a request for forfeiture shall be filed with the trial court within  
12 the time limit imposed by section 18-5620, Idaho Code. The request shall be  
13 served in the same manner as complaints subject to Idaho rules of civil pro-  
14 cedure on all persons having an interest in the real property sought to be  
15 forfeited.

16 (3) Notwithstanding any other provision of this section, upon being  
17 satisfied that the interest of a co-owner or claimant should not be subject  
18 to forfeiture because they neither knew nor should have known that the real  
19 property was being used or had been used for the purposes alleged, or that due  
20 to preexisting security interests in such property there is no equity that  
21 may be forfeited, the attorney general or appropriate prosecuting attorney  
22 may release the property to the co-owner, holder of the security interest or  
23 other claimant.

24 (4) Within twenty (20) days of the mailing of the notice, the co-owner  
25 or party in interest may file a verified answer and claim to the property de-  
26 scribed in the notice.

27 (5) If a verified answer is filed within twenty (20) days after mailing  
28 of the notice, the forfeiture proceeding against all co-owners and parties  
29 in interest who have filed verified answers shall be set for hearing before  
30 the court without a jury on a day not less than sixty (60) days after the mail-  
31 ing of the notice; and the proceeding shall have priority over other civil  
32 cases.

33 (a) A co-owner or claimant of any right, title or interest in the real  
34 property sought to be forfeited may prove that his right, title or in-  
35 terest, whether under a lien, mortgage, deed of trust or otherwise, was  
36 created without any knowledge or reason to believe that the real prop-  
37 erty was being used or had been used for the purposes alleged;

38 (b) Any co-owner who has a verified answer on file may show by competent  
39 evidence that his interest in the property sought to be forfeited is not  
40 subject to forfeiture because he could not have known in the exercise of  
41 reasonable diligence that the real property was being used or had been  
42 used in any manner in violation of the provisions of section 18-5612,  
43 Idaho Code.

44 (6) In the event of such proof, the court shall order the release of the  
45 interest of the co-owner, purchaser, lienholder, mortgagee or beneficiary.

46 (a) If the amount due to such person is less than the value of the real  
47 property, the real property may be sold in a commercially reasonable  
48 manner by the attorney general or appropriate prosecuting attorney.  
49 The proceeds from such sale shall be distributed as follows in the order  
50 indicated:

1 (i) To the innocent co-owner, purchaser, mortgagee or benefi-  
 2 ciary of the real property, if any, up to the value of his interest  
 3 in the real property;

4 (ii) The balance, if any, in the following order:

5 1. To the attorney general or appropriate prosecuting at-  
 6 torney for all expenditures made or incurred in connection  
 7 with the sale, including expenditure for any necessary re-  
 8 pairs or maintenance of the real property, and for all expen-  
 9 ditures made or incurred in connection with the forfeiture  
 10 proceedings including, but not limited to, expenditures for  
 11 witnesses' fees, reporters' fees, transcripts, printing,  
 12 travel, investigation, title company fees and insurance  
 13 premiums.

14 2. The remainder, if any, to the crime ~~victim's~~ victims com-  
 15 pensation account as established in section 72-1009, Idaho  
 16 Code.

17 (b) In any case, the attorney general or appropriate prosecuting attor-  
 18 ney may, within thirty (30) days after the order of forfeiture, pay the  
 19 balance due to the innocent co-owner, purchaser, lienholder, mortgagee  
 20 or beneficiary and thereby purchase the real property for use in the en-  
 21 forcement of this chapter.

22 SECTION 4. That Section 19-865, Idaho Code, be, and the same is hereby  
 23 amended to read as follows:

24 19-865. APPLICATION OF ACT -- STATE COURTS -- FEDERAL COURTS. This act  
 25 applies only to representation in the courts of this state, except that it  
 26 does not prohibit a defending attorney from representing an indigent person  
 27 in a federal court of the United States, if:

28 (1) The matter arises out of or is related to an action pending or re-  
 29 cently pending in a court of criminal jurisdiction of the state; or

30 (2) Representation is under a plan of the United States ~~D~~district  
 31 ~~C~~court as required by the criminal justice act of 1964, 18 U.S.C. 3006A, and  
 32 is approved by the board of county commissioners.

33 SECTION 5. That Section 23-1003, Idaho Code, be, and the same is hereby  
 34 amended to read as follows:

35 23-1003. BREWERS', DEALERS' AND WHOLESALERS' LICENSES. (a) Before  
 36 any brewer shall manufacture or any dealer or wholesaler import or sell beer  
 37 within the state of Idaho, he shall apply to the director for a license ~~se~~  
 38 ~~to do~~. The application form shall be prescribed and furnished by the direc-  
 39 tor and require that the applicant ~~therein~~ show that he possesses all the  
 40 qualifications and none of the disqualifications of a licensee. To deter-  
 41 mine qualification for a license, the director shall cause an investigation  
 42 that shall include a fingerprint-based criminal history check of the Idaho  
 43 central criminal history database and the federal bureau of investigation  
 44 criminal history database. Each person listed as an applicant on an initial  
 45 application shall submit a full set of fingerprints and the fee to cover the  
 46 cost of the criminal history background check ~~for such person~~ with the appli-  
 47 cation. The application shall also be accompanied by the required licensee

1 fee; provided, that where the applicant is or will be within more than one  
2 (1) of the foregoing classifications, he shall apply for each classification  
3 but shall pay only one (1) license fee, which shall be for the classification  
4 applied for requiring the highest fee. If the director is satisfied that the  
5 applicant possesses the qualifications and none of the disqualifications  
6 for ~~such~~ the license, he shall issue a license for each classification ap-  
7 plied for, subject to the restrictions and upon the conditions in this act  
8 specified, which license or licenses shall be at all times prominently dis-  
9 played in the place of business of the licensee.

10 (b) Each wholesaler shall, in addition to the application, file with  
11 the director a notice in writing signed by the dealer or brewer and the whole-  
12 saler stating the geographic territory within which the wholesaler will dis-  
13 tribute beer to retailers. ~~Said~~ The territory will be ~~the territory~~ agreed  
14 upon between the dealer or brewer and the wholesaler and may not be changed  
15 or modified without the consent of both the dealer or brewer and the whole-  
16 saler. Provided however, nothing ~~contained herein~~ in this section shall be  
17 interpreted to prohibit a brewer or dealer from permitting more than one (1)  
18 distributor for the same geographic territory.

19 (c) In the event that a wholesaler sells beer to a retailer who is lo-  
20 cated outside the geographical territory designated by ~~such~~ that wholesaler  
21 on the notice provided for in subsection (b) of this section, the dealer or  
22 wholesaler who has designated the geographical territory in which the sale  
23 occurred may apply to a district court of this state for the issuance of an  
24 injunction enjoining sales of beer by the wholesaler outside of his desig-  
25 nated geographical territory. The procedure for issuance of an injunction  
26 pursuant to this act shall be subject to the Idaho rules of civil procedure.  
27 Upon proof to the court that a wholesaler has made a sale of beer outside his  
28 designated geographical territory, the court shall issue an injunction di-  
29 rected to the wholesaler prohibiting sales of beer outside his designated  
30 geographical territory.

31 (d) Any brewer licensed within the state of Idaho who produces fewer  
32 than thirty thousand (30,000) barrels of beer annually, upon payment of a re-  
33 tailer's annual license fee, may be issued a brewer's retail beer license for  
34 the retail sale of the products of his brewery at his licensed premises or one  
35 (1) remote retail location, or both. Any brewer selling beer at retail or  
36 selling to a retailer must pay the taxes required in section 23-1008, Idaho  
37 Code, but need not be licensed as a wholesaler for the purpose of selling beer  
38 at the brewery or at one (1) remote retail location.

39 (e) Any brewer licensed within the state of Idaho who produces fewer  
40 than thirty thousand (30,000) barrels of beer annually, may be issued a  
41 brewer's pub license. Upon payment of a retailer's annual license fee, and  
42 subject to the fees in sections 23-1015 and 23-1016, Idaho Code, a brewer  
43 may, at his licensed brewery, ~~or~~ or at one (1) remote retail location, or both,  
44 sell at retail the products of any brewery by the individual bottle, can or  
45 glass. Any brewer selling beer at retail or selling to a retailer must pay  
46 the taxes required in section 23-1008, Idaho Code, on the products of his  
47 brewery, but need not be licensed as a wholesaler for the purpose of selling  
48 beer at the brewery or at one (1) remote retail location.

49 (f) A brewer licensed under the provisions of subsection (d) or (e) of  
50 this section may be licensed as a wholesaler for the sale of beer to retail-

1    ers other than at the licensed brewery and one (1) remote retail location and  
 2    shall not be required to pay an additional fee ~~therefor~~. Such brewer shall,  
 3    however, comply with and be subject to all other regulations or provisions of  
 4    law ~~which that~~ apply to a wholesaler's license, ~~save and~~ except as ~~such the~~  
 5    laws may restrict ~~such~~ sales at the licensed brewery or one (1) other remote  
 6    retail location. The holder of a brew pub license shall not be disqualified  
 7    from holding a retail wine license or wine by the drink license for the sale  
 8    of wine at the brew pub premises on the grounds that ~~said~~ the licensee is also  
 9    licensed as a wholesaler.

10       SECTION 6. That Section 25-3201, Idaho Code, be, and the same is hereby  
 11    amended to read as follows:

12       25-3201. DEFINITIONS. When used in this act:

13       (~~a~~1) The term "rendering establishment" means a place of business that  
 14    deals in rendering material of animal origin and processes it into finished  
 15    products in such a way that risk, damage, or nuisance to animal or public  
 16    health is avoided. Any person who receives from any other person the body of  
 17    any dead animal for the purposes of obtaining the hide, skin, grease, meat,  
 18    bones, or parts thereof from such animal for further processing to a finished  
 19    form as described in paragraph (~~e~~5) of this section is deemed to be engaged  
 20    in the business of disposing and rendering of the bodies of dead animals or  
 21    parts thereof.

22       (~~b~~2) The term "rendering material" means and includes any dead animal  
 23    not slaughtered as food for animals or man, or if slaughtered for food, be-  
 24    comes unsuitable for such use, and includes all parts of dead animals and all  
 25    inedible by-products of animals slaughtered or processed as food.

26       (~~e~~3) The term "animal" means any member of the animal kingdom such as  
 27    fish, reptiles, birds and mammals, etc.

28       (~~d~~4) The term "4-D animals" means dead, dying, disabled, or diseased  
 29    animals.

30       (~~e~~5) The term "finished products" means any product or material pro-  
 31    cessed or manufactured from rendering material or from 4-D animals by a ren-  
 32    dering establishment or establishment processing 4-D animals such as bone  
 33    meal, blood meal, meat meal, tankage, feather meal, tallow, etc., or fresh  
 34    frozen, partially cooked, or cooked or canned pet, fur animal, or other ani-  
 35    mal feed.

36       (~~f~~6) The term "establishments processing 4-D animals" means a place of  
 37    business that processes the carcasses or any part of carcasses of 4-D animals  
 38    to be used as feed for dogs, cats, fur-bearing or other animals.

39       (~~g~~7) The term "inspector" means a state employee trained and assigned  
 40    to inspect rendering plants and establishments processing 4-D animals.

41       (~~h~~8) The term "department" means the state department of agriculture.

42       (~~i~~9) The term "laboratory tests" means tests conducted as deemed nec-  
 43    essary by the department to ensure that the finished product meets required  
 44    specifications for quality and safety (to include protein analysis, contam-  
 45    inating agents of disease, etc.); such laboratory tests to be performed in  
 46    laboratories approved as provided in paragraph (~~h~~8) of this section and on  
 47    samples of finished products collected by the inspector.



1 SECTION 7. That Section 25-3203, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 25-3203. ESTABLISHING STANDARDS FOR ESTABLISHMENTS PRIOR TO APPLICA-  
4 TION FOR LICENSE. The license referred to in section 25-3202, ~~of this act~~  
5 Idaho Code, shall be issued to an establishment only if the following re-  
6 quirements are met:

7 (a~~1~~) A fee of twenty-five dollars (\$25.00) for the issuance of a license  
8 shall be paid to the state by the licensee, subject to renewal each year.

9 (b~~2~~) All rendering establishments and establishments processing 4-D  
10 animals are to be constructed in such a manner as to protect the finished  
11 product and to prevent pollution of surrounding environment or creation of  
12 a nuisance to the public.

13 (c~~3~~) All rendering material shall be transported to the rendering es-  
14 tablishment in covered and leak-proof vehicles, such vehicles to be used for  
15 this purpose only and to be cleaned and disinfected after delivering each  
16 load.

17 (d~~4~~) All rendering material shall be heated to a sufficient temperature  
18 for a sufficient length of time to destroy all pathogens, and processed under  
19 sanitary procedures that prohibit the recontamination of the product after  
20 cooking.

21 (e~~5~~) The finished product shall be transported from the rendering es-  
22 tablishment or the establishment processing 4-D animals in a clean vehicle  
23 in such a manner that will prevent contamination.

24 (f~~6~~) Rendering establishments and establishments processing 4-D ani-  
25 mals may be inspected periodically by an inspector who may procure samples  
26 for laboratory testing.

27 SECTION 8. That Section 28-4-613, Idaho Code, be, and the same is hereby  
28 amended to read as follows:

29 28-4-613. ERRONEOUS PAYMENT ORDERS. (1) If an accepted payment order  
30 was transmitted pursuant to a security procedure for the detection of error  
31 and the payment order (i) erroneously instructed payment to a beneficiary  
32 not intended by the sender, (ii) erroneously instructed payment in an amount  
33 greater than the amount intended by the sender, or (iii) was an erroneously  
34 transmitted duplicate of a payment order previously sent by the sender, the  
35 following rules apply:

36 (a) If the sender proves that the sender or a person acting on behalf of  
37 the sender pursuant to section 28-4-614, Idaho Code, complied with the  
38 security procedure and that the error would have been detected if the  
39 receiving bank had also complied, the sender is not obliged to pay the  
40 order to the extent stated in subsections (2) and (3) of this section.

41 (b) If the funds transfer is completed on the basis of an erroneous  
42 payment order described in clause (i) or (iii) of subsection (1) of this  
43 section, the sender is not obliged to pay the order and the receiving  
44 bank is entitled to recover from the beneficiary any amount paid to  
45 the beneficiary to the extent allowed by the law governing mistake and  
46 restitution.

47 (c) If the funds transfer is completed on the basis of a payment order  
48 described in clause (ii) of subsection (1) of this section, the sender

1 is not obliged to pay the order to the extent the amount received by the  
2 beneficiary is greater than the amount intended by the sender. In that  
3 case, the receiving bank is entitled to recover from the beneficiary the  
4 excess amount received to the extent allowed by the law governing mis-  
5 take and restitution.

6 (2) If (i) the sender of an erroneous payment order described in subsec-  
7 tion (1) of this section is not obliged to pay all or part of the order, and  
8 (ii) the sender receives notification from the receiving bank that the order  
9 was accepted by the bank or that the sender's account was debited with re-  
10 spect to the order, the sender has a duty to exercise ordinary care, on the  
11 basis of information available to the sender, to discover the error with re-  
12 spect to the order and to advise the bank of the relevant facts within a rea-  
13 sonable time, not exceeding ninety (90) days, after the bank's notification  
14 was received by the sender. If the bank proves that the sender failed to per-  
15 form that duty, the sender is liable to the bank for the loss the bank proves  
16 it incurred as a result of the failure, but the liability of the sender may  
17 not exceed the amount of the sender's order.

18 (3) This section applies to amendments to payment orders to the same ex-  
19 tent it applies to payment orders.

20 SECTION 9. That Section 28-5-120, Idaho Code, be, and the same is hereby  
21 amended to read as follows:

22 28-5-120. SECURITY INTEREST OF ISSUER OR NOMINATED PERSON. (a) An is-  
23 suer or nominated person has a security interest in a document presented un-  
24 der a letter of credit to the extent that the issuer or nominated person hon-  
25 ors or gives value for the presentation.

26 (b) So long as and to the extent that an issuer or nominated person has  
27 not been reimbursed or has not otherwise recovered the value given with re-  
28 spect to a security interest in a document under subsection (a) of this sec-  
29 tion, the security interest continues and is subject to chapter 9, title 28,  
30 Idaho Code, but:

31 (1) A security agreement is not necessary to make the security interest  
32 enforceable under section 28-9-203(b) (3), Idaho Code;

33 (2) If the document is presented in a medium other than a written or  
34 other tangible medium, the security interest is perfected; and

35 (3) If the document is presented in a written or other tangible medium  
36 and is not a certificated security, chattel paper, a document of title,  
37 an instrument, or a letter of credit, the security interest is perfected  
38 and has priority over a conflicting security interest in the document so  
39 long as the debtor does not have possession of the document. This act  
40 applies to a letter of credit that is issued on or after the effective  
41 date of this act. This act does not apply to a transaction, event, obli-  
42 gation, or duty arising out of or associated with a letter of credit that  
43 was issued before the effective date of this act.

44 SECTION 10. That Section 28-41-201, Idaho Code, be, and the same is  
45 hereby amended to read as follows:

46 28-41-201. TERRITORIAL APPLICATION. (1) Except as otherwise provided  
47 in this section, this act applies to sales and loans made in this state and to

1 modifications, including refinancings, consolidations, and deferrals, made  
2 in this state, of sales and loans, wherever made. For purposes of this act, a  
3 sale, loan, or modification of a sale or loan is made in this state if:

4 (a) A written agreement evidencing the obligation or offer of the con-  
5 sumer is received by the creditor in this state; or

6 (b) A consumer who is a resident of this state enters into the transac-  
7 tion with a creditor who has solicited or advertised in this state by any  
8 means including, but not limited to, mail, brochure, telephone, print,  
9 radio, television, internet or any other electronic means.

10 (2) Notwithstanding subsection (1)(b) of this section, unless made  
11 subject to this act by agreement of the parties, a sale, loan, or modifica-  
12 tion of a sale or loan is not made in this state if a resident of this state  
13 enters into the transaction while physically present in another state.

14 (3) The part on limitations on creditors' remedies, part 1 of the chap-  
15 ter on remedies and penalties, chapter 45, title 28, Idaho Code, applies to  
16 actions or other proceedings brought in this state to enforce rights arising  
17 from regulated credit sales or regulated loans, or extortionate extensions  
18 of credit, wherever made.

19 (4) If a regulated credit sale or regulated loan, or modification  
20 thereof, is made in another state to a person who is a resident of this state  
21 when the sale, loan, or modification is made, the following provisions apply  
22 as though the transaction occurred in this state:

23 (a) A seller, lender, or assignee of his rights, may not collect charges  
24 through actions or other proceedings in excess of those permitted by the  
25 chapter 42, title 28, Idaho Code, on finance charges and related provi-  
26 sions; and

27 (b) A seller, lender, or assignee of his rights, may not enforce rights  
28 against the buyer or debtor, with respect to the provisions of agree-  
29 ments which violate the provisions on limitations on agreements and  
30 practices, part 3, of chapter 43, title 28, Idaho Code.

31 (5) Except as provided in subsection (3) of this section, a sale, loan,  
32 or modification thereof, made in another state to a person who was not a res-  
33 ident of this state when the sale, loan or modification was made is valid  
34 and enforceable according to its terms to the extent that it is valid and en-  
35 forceable under the laws of the state applicable to the transaction.

36 (6) For the purposes of this act, the residence of a buyer or debtor is  
37 the address given by him as his residence in any writing signed by him in con-  
38 nection with a credit transaction. Until he notifies the creditor of a new or  
39 different address, the given address is presumed to be unchanged.

40 (7) Notwithstanding other provisions of this section:

41 (a) Except as provided in subsection (3) of this section, this act does  
42 not apply if the buyer or debtor is not a resident of this state at the  
43 time of a credit transaction and the parties then agree that the law of  
44 his residence applies; and

45 (b) This act applies if the buyer or debtor is a resident of this state  
46 at the time of a credit transaction and the parties then agree that the  
47 law of this state applies.

48 (8) Except as provided in subsection (7) of this section, the following  
49 agreements by a buyer or debtor are invalid with respect to regulated credit  
50 sales, regulated loans, or modifications thereof, to which this act applies:

- 1 (a) That the law of another state shall apply;  
2 (b) That the buyer or debtor consents to the jurisdiction of another  
3 state; and  
4 (c) That fixes venue.  
5 (9) Notwithstanding any other provision in this section, any person  
6 who, in this state, advertises, offers or solicits to make a loan for a  
7 consumer purpose, or arranges a payday loan for a third party lender, is  
8 engaging in business in this state for which a license is required under the  
9 Idaho credit code, unless exempt pursuant to section 28-46-301, Idaho Code.

10 SECTION 11. That Section 28-44-107, Idaho Code, be, and the same is  
11 hereby amended to read as follows:

12 28-44-107. MAXIMUM CHARGE BY CREDITOR FOR INSURANCE. (1) Except as  
13 provided in subsection (2) of this section, if a creditor contracts for or  
14 receives a separate charge for insurance, the amount charged to the debtor  
15 for the insurance may not exceed the premium to be charged by the insurer, as  
16 computed at the time the charge to the debtor is determined, conforming to  
17 any rate filings required by law and made by the insurer with the director of  
18 the department of insurance.

19 (2) A creditor who provides credit insurance in relation to open-end  
20 ~~consumer~~ credit, as defined in section 28-41-301, Idaho Code, may calculate  
21 the charge to the debtor in each billing cycle by applying the current pre-  
22 mium rate to:

- 23 (a) The average daily unpaid balance of the debt in the cycle;  
24 (b) The unpaid balance of the debt or a median amount within a specified  
25 range of unpaid balances of debt on approximately the same day of the cy-  
26 cle. The day of the cycle need not be the day used in calculating the  
27 finance charge, section 28-42-201, Idaho Code, but the specified range  
28 shall be the range used for that purpose; or  
29 (c) The unpaid balances of principal calculated according to the actu-  
30 arial method.

31 SECTION 12. That Section 28-49-101, Idaho Code, be, and the same is  
32 hereby amended to read as follows:

33 28-49-101. RELATIONSHIP TO OTHER LAWS. (1) All political subdivisions  
34 of this state shall be prohibited from enacting and enforcing ordinances,  
35 resolutions and regulations pertaining to the financial or lending activi-  
36 ties of persons who:

- 37 (a) Are subject to the jurisdiction of the department of finance of the  
38 state of Idaho, including activities subject to this chapter;  
39 (b) Are subject to the jurisdiction or regulatory supervision of the  
40 board of governors of the federal reserve system, the office of the  
41 comptroller of the currency, ~~the office of thrift supervision~~, the  
42 national credit union administration, the federal deposit insurance  
43 corporation, the federal trade commission or the United States depart-  
44 ment of housing and urban development; or  
45 (c) Originate, purchase, sell, assign, securitize or service prop-  
46 erty interests or obligations created by financial transactions or  
47 loans made, executed or originated by persons referred to in subsection

1 (1) (a) or (1) (b) of this section or assist or facilitate such transac-  
2 tions.

3 (2) The requirements of this section shall apply to all ordinances,  
4 resolutions and regulations pertaining to financial or lending activities,  
5 including any ordinances, resolutions or regulations disqualifying persons  
6 from doing business with a political subdivision based upon financial or  
7 lending activities or imposing reporting requirements or any other obliga-  
8 tions upon persons regarding financial or lending activities.

9 SECTION 13. That Section 28-51-105, Idaho Code, be, and the same is  
10 hereby amended to read as follows:

11 28-51-105. DISCLOSURE OF BREACH OF SECURITY OF COMPUTERIZED PERSONAL  
12 INFORMATION BY AN AGENCY, INDIVIDUAL OR A COMMERCIAL ENTITY. (1) A city,  
13 county or state agency, individual or a commercial entity that conducts  
14 business in Idaho and that owns or licenses computerized data that includes  
15 personal information about a resident of Idaho shall, when it becomes aware  
16 of a breach of the security of the system, conduct in good faith a reasonable  
17 and prompt investigation to determine the likelihood that personal informa-  
18 tion has been or will be misused. If the investigation determines that the  
19 misuse of information about an Idaho resident has occurred or is reasonably  
20 likely to occur, the agency, individual or the commercial entity shall give  
21 notice as soon as possible to the affected Idaho resident. Notice must be  
22 made in the most expedient time possible and without unreasonable delay,  
23 consistent with the legitimate needs of law enforcement and consistent with  
24 any measures necessary to determine the scope of the breach, to identify the  
25 individuals affected, and to restore the reasonable integrity of the comput-  
26 erized data system.

27 When an agency becomes aware of a breach of the security of the system,  
28 it shall, within twenty-four (24) hours of such discovery, notify the of-  
29 fice of the Idaho attorney general. Nothing contained ~~herein in this section~~  
30 relieves a state agency's responsibility to report a security breach to the  
31 office of the chief information officer within the department of adminis-  
32 tration, pursuant to the ~~information technology resource management council~~  
33 Idaho technology authority policies.

34 Any governmental employee ~~that~~ who intentionally discloses personal  
35 information not subject to disclosure otherwise allowed by law, is guilty of  
36 a misdemeanor and, upon conviction thereof, shall be punished by a fine of  
37 not more than two thousand dollars (\$2,000), or by imprisonment in the county  
38 jail for a period of not more than one (1) year, or both.

39 (2) An agency, individual or a commercial entity that maintains comput-  
40 erized data that includes personal information that the agency, individual  
41 or the commercial entity does not own or license shall give notice to and co-  
42 operate with the owner or licensee of the information of any breach of the se-  
43 curity of the system immediately following discovery of a breach, if misuse  
44 of personal information about an Idaho resident occurred or is reasonably  
45 likely to occur. Cooperation includes sharing with the owner or licensee in-  
46 formation relevant to the breach.

47 (3) Notice required by this section may be delayed if a law enforcement  
48 agency advises the agency, individual or commercial entity that the notice  
49 will impede a criminal investigation. Notice required by this section must

1 be made in good faith, without unreasonable delay and as soon as possible af-  
2 ter the law enforcement agency advises the agency, individual or commercial  
3 entity that notification will no longer impede the investigation.

4 SECTION 14. That Section 30-1-630, Idaho Code, be, and the same is  
5 hereby amended to read as follows:

6 30-1-630. SHAREHOLDERS' PREEMPTIVE RIGHTS. (1) The shareholders of  
7 a corporation do not have a preemptive right to acquire the corporation's  
8 unissued shares except to the extent the articles of incorporation so pro-  
9 vide.

10 (2) A statement included in the articles of incorporation that "the  
11 corporation elects to have preemptive rights," or words of similar import,  
12 means that the following principles apply except to the extent the articles  
13 of incorporation expressly provide otherwise:

14 (a) The shareholders of the corporation have a preemptive right,  
15 granted on uniform terms and conditions prescribed by the board of di-  
16 rectors to provide a fair and reasonable opportunity to exercise the  
17 right, to acquire proportional amounts of the corporation's ~~unissued~~  
18 unissued shares upon the decision of the board of directors to issue  
19 them.

20 (b) A shareholder may waive his preemptive right. A waiver evidenced by  
21 a writing is irrevocable even though it is not supported by considera-  
22 tion.

23 (c) There is no preemptive right with respect to:

24 (i) Shares issued as compensation to directors, officers, agents  
25 or employees of the corporation, its subsidiaries or affiliates;

26 (ii) Shares issued to satisfy conversion rights or option rights  
27 created to provide compensation to directors, officers, agents or  
28 employees of the corporation, its subsidiaries or affiliates;

29 (iii) Shares authorized in articles of incorporation that are is-  
30 sued within six (6) months from the effective date of incorpora-  
31 tion;

32 (iv) Shares sold otherwise than for money.

33 (d) Holders of shares of any class without general voting rights but  
34 with preferential rights to distributions or assets have no preemptive  
35 rights with respect to shares of any class.

36 (e) Holders of shares of any class with general voting rights but with-  
37 out preferential rights to distributions or assets have no preemptive  
38 rights with respect to shares of any class with preferential rights to  
39 distributions or assets unless the shares with preferential rights are  
40 convertible into or carry a right to subscribe for or acquire shares  
41 without preferential rights.

42 (f) Shares subject to preemptive rights that are not acquired by share-  
43 holders may be issued to any person for a period of one (1) year after  
44 being offered to shareholders at a consideration set by the board of di-  
45 rectors that is not lower than the consideration set for the exercise  
46 of preemptive rights. An offer at a lower consideration or after the  
47 expiration of one (1) year is subject to the shareholders' preemptive  
48 rights.

1 (3) For purposes of this section, "shares" includes a security convert-  
2 ible into or carrying a right to subscribe for or acquire shares.

3 SECTION 15. That Section 30-1-1302, Idaho Code, be, and the same is  
4 hereby amended to read as follows:

5 30-1-1302. RIGHT TO APPRAISAL. (1) A shareholder is entitled to ap-  
6 praisal rights, and to obtain payment of the fair value of that shareholder's  
7 shares, in the event of, any of the following corporate actions:

8 (a) Consummation of a merger to which the corporation is a party:

9 (i) If shareholder approval is required for the merger by section  
10 30-1-1104, Idaho Code, and the shareholder is entitled to vote on  
11 the merger, except that appraisal rights shall not be available to  
12 any shareholder of the corporation with respect to shares of any  
13 class or series that remain outstanding after consummation of the  
14 merger; or

15 (ii) If the corporation is a subsidiary and the merger is governed  
16 by section 30-1-1105, Idaho Code;

17 (b) Consummation of a share exchange to which the corporation is a party  
18 as the corporation whose shares will be acquired, if the shareholder is  
19 entitled to vote on the exchange, except that appraisal rights shall not  
20 be available to any shareholder of the corporation with respect to any  
21 class or series of shares of the corporation that is not exchanged;

22 (c) Consummation of a disposition of assets pursuant to section 30-1-  
23 1202, Idaho Code, if the shareholder is entitled to vote on the disposi-  
24 tion;

25 (d) An amendment of the articles of incorporation with respect to a  
26 class or series of shares that reduces the number of shares of a class or  
27 series owned by the shareholder to a fraction of a share if the corpora-  
28 tion has the obligation or right to repurchase the fractional share so  
29 created; or

30 (e) Any other amendment to the articles of incorporation, merger, share  
31 exchange or disposition of assets to the extent provided by the articles  
32 of incorporation, bylaws or a resolution of the board of directors.

33 (2) Notwithstanding subsection (1) of this section, the availability  
34 of appraisal rights under subsections (1) (a), (b), (c) and (d) of this sec-  
35 tion shall be limited in accordance with the following provisions:

36 (a) Appraisal rights shall not be available for the holders of shares of  
37 any class or series of shares which are:

38 (i) Listed on the New York stock exchange or the American stock  
39 exchange or designated as a national market system security on an  
40 interdealer quotation system by the ~~national association of secu-~~  
41 ~~rities dealers, inc.~~ financial industry regulatory authority; or

42 (ii) Not so listed or designated, but have at least two thousand  
43 (2,000) shareholders and the outstanding shares of such class  
44 or series have a market value of at least twenty million dollars  
45 (\$20,000,000), exclusive of the value of such shares held by its  
46 subsidiaries, senior executives, directors and beneficial share-  
47 holders owning more than ten percent (10%) of such shares.

48 (b) The applicability of subsection (2) (a) of this section shall be de-  
49 termined as of:

1 (i) The record date fixed to determine the shareholders entitled  
2 to receive notice of, and vote at, the meeting of shareholders to  
3 act upon the corporate action requiring appraisal rights; or

4 (ii) The day before the effective date of such corporate action if  
5 there is no meeting of shareholders.

6 (c) Subsection (2) (a) of this section shall not be applicable and ap-  
7 praisal rights shall be available pursuant to subsection (1) of this  
8 section for the holders of any class or series of shares who are required  
9 by the terms of the corporate action requiring appraisal rights to ac-  
10 cept for such shares anything other than cash or shares of any class or  
11 any series of shares of any corporation, or any other proprietary in-  
12 terest of any other entity, that satisfies the standards set forth in  
13 subsection (2) (a) of this section at the time the corporate action be-  
14 comes effective.

15 (d) Subsection (2) (a) of this section shall not be applicable and ap-  
16 praisal rights shall be available pursuant to subsection (1) of this  
17 section for the holders of any class or series of shares where:

18 (i) Any of the shares or assets of the corporation are being ac-  
19 quired or converted, whether by merger, share exchange or other-  
20 wise, pursuant to the corporate action by a person, or by an affil-  
21 iate of a person, who:

22 (A) Is, or at any time in the one (1) year period immediately  
23 preceding approval by the board of directors of the corpo-  
24 rate action requiring appraisal rights was, the beneficial  
25 owner of twenty percent (20%) or more of the voting power of  
26 the corporation, excluding any shares acquired pursuant to  
27 an offer for all shares having voting power if such offer was  
28 made within one (1) year prior to the corporate action re-  
29 quiring appraisal rights for consideration of the same kind  
30 and of a value equal to or less than that paid in connection  
31 with the corporate action; or

32 (B) Directly or indirectly has, or at any time in the one (1)  
33 year period immediately preceding approval by the board of  
34 directors of the corporation of the corporate action requir-  
35 ing appraisal rights had, the power, contractually or oth-  
36 erwise, to cause the appointment or election of twenty-five  
37 percent (25%) or more of the directors to the board of direc-  
38 tors of the corporation; or

39 (ii) Any of the shares or assets of the corporation are being ac-  
40 quired or converted, whether by merger, share exchange or other-  
41 wise, pursuant to such corporate action by a person, or by an af-  
42 filiate of a person, who is, or at any time in the one (1) year pe-  
43 riod immediately preceding approval by the board of directors of  
44 the corporate action requiring appraisal rights was, a senior ex-  
45 ecutive or director of the corporation or a senior executive of any  
46 affiliate thereof, and that senior executive or director will re-  
47 ceive, as a result of the corporate action, a financial benefit not  
48 generally available to other shareholders as such, other than:



1 (A) Employment, consulting, retirement or similar benefits  
2 established separately and not as part of or in contempla-  
3 tion of the corporate action; or

4 (B) Employment, consulting, retirement or similar benefits  
5 established in contemplation of, or as part of, the corpo-  
6 rate action that are not more favorable than those existing  
7 before the corporate action or, if more favorable, that have  
8 been approved on behalf of the corporation in the same manner  
9 as is provided in section 30-1-862, Idaho Code; or

10 (C) In the case of a director of the corporation who will,  
11 in the corporate action, become a director of the acquiring  
12 entity in the corporate action or one (1) of its affiliates,  
13 rights and benefits as a director that are provided on the  
14 same basis as those afforded by the acquiring entity gener-  
15 ally to other directors of such entity or such affiliate.

16 (e) For the purposes of subsection (2) (d) of this section only, the  
17 term "beneficial owner" means any person who, directly or indirectly,  
18 through any contract, arrangement, or understanding, other than a revo-  
19 cable proxy, has or shares the power to vote, or to direct the voting of,  
20 shares, provided that a member of a national securities exchange shall  
21 not be deemed to be a beneficial owner of securities held directly or  
22 indirectly by it on behalf of another person solely because such member  
23 is the record holder of such securities if the member is precluded by  
24 the rules of such exchange from voting without instruction on contested  
25 matters or matters that may affect substantially the rights or privi-  
26 leges of the holders of the securities to be voted. When two (2) or more  
27 persons agree to act together for the purpose of voting their shares of  
28 the corporation, each member of the group formed thereby shall be deemed  
29 to have acquired beneficial ownership, as of the date of such agreement,  
30 of all voting shares of the corporation beneficially owned by any member  
31 of the group.

32 (3) Notwithstanding any other provision of this section, the articles  
33 of incorporation as originally filed or any amendment thereto may limit or  
34 eliminate appraisal rights for any class or series of preferred shares, but  
35 any such limitation or elimination contained in an amendment to the arti-  
36 cles of incorporation that limits or eliminates appraisal rights for any of  
37 such shares that are outstanding immediately prior to the effective date of  
38 such amendment or that the corporation is or may be required to issue or sell  
39 thereafter pursuant to any conversion, exchange or other right existing im-  
40 mediately before the effective date of such amendment shall not apply to any  
41 corporate action that becomes effective within one (1) year of that date if  
42 such action would otherwise afford appraisal rights.

43 (4) A shareholder entitled to appraisal rights under this part may not  
44 challenge a completed corporate action for which appraisal rights are avail-  
45 able unless such corporate action:

46 (a) Was not effectuated in accordance with the applicable provisions of  
47 part 10, 11 or 12 of this chapter or the corporation's articles of incor-  
48 poration, bylaws or board of directors' resolution authorizing the cor-  
49 porate action; or

50 (b) Was procured as a result of fraud or material misrepresentation.

1 SECTION 16. That Section 30-3-20, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 30-3-20. ORGANIZATION OF CORPORATION. (1) After incorporation:

4 (a) If initial directors are named in the articles of incorporation,  
5 the initial directors shall hold an organizational meeting, at the call  
6 of a majority of the directors, to complete the organization of the cor-  
7 poration by appointing officers, adopting bylaws and carrying on any  
8 other business brought before the meeting;

9 (b) If initial directors are not named in the articles, the incorpora-  
10 tor or incorporators shall hold an organizational meeting at the call of  
11 a majority of the incorporators:

12 (i) To elect directors and complete the organization of the in-  
13 corporation; or

14 (ii) To elect a board of directors who shall complete the organi-  
15 zation of the corporation.

16 (2) Action required or permitted by this act to be taken by incorpora-  
17 tors at an organizational meeting may be taken without a meeting if the ac-  
18 tion taken is evidenced by one (1) or more written consents describing the  
19 action taken and signed by each incorporator.

20 (3) An organizational meeting may be held in or out of this state in ac-  
21 cordance with section 30-3-7546, Idaho Code.

22 SECTION 17. That Section 30-1604, Idaho Code, be, and the same is hereby  
23 amended to read as follows:

24 30-1604. INFORMATION STATEMENT. (1) An acquiring person shall deliver  
25 to the issuing public corporation at its principal executive office an in-  
26 formation statement containing all the following:

27 (a) The identity of the acquiring person, including the identity of  
28 each member of any partnership, limited partnership, syndicate or other  
29 group constituting the acquiring person and the identity of each affil-  
30 iate and associate of the acquiring person, including the identity of  
31 each affiliate and associate of each member of such partnership, syndi-  
32 cate or other group;

33 (b) A reference that the information is made under the provisions of  
34 this section;

35 (c) The number and class or series of shares of the issuing public  
36 corporation beneficially owned, directly or indirectly, before the  
37 control share acquisition by each of the persons identified pursuant to  
38 paragraph (a) of this subsection;

39 (d) The number and class or series of shares of the issuing public cor-  
40 poration acquired or proposed to be acquired pursuant to the control  
41 share acquisition by each of the persons identified pursuant to para-  
42 graph (a) of this subsection and specification of which of the following  
43 ranges of voting power in the election of directors that, except for the  
44 provisions of this chapter, the acquiring person in good faith believes  
45 resulted or would result from consummation of control share ~~acquisition~~  
46 acquisition:

47 1. At least twenty ~~per cent~~ percent (20%) but less than thirty-  
48 three and one-third ~~per cent~~ percent (33 1/3%);

1           2. At least thirty-three and one-third ~~per cent~~ percent (33 1/3%)  
2           but less than or equal to fifty ~~per cent~~ percent (50%); or

3           3. Over fifty per cent (50%); and

4           (e) The terms of the control share acquisition or proposed control  
5           share acquisition, including the source of moneys or other consid-  
6           eration and the material terms of the financial arrangements for the  
7           control share acquisition, plans or proposals of the acquiring per-  
8           son, including plans or proposals under consideration to enter into  
9           a business combination or combinations involving the issuing public  
10          corporation, to liquidate or dissolve the issuing public corporation,  
11          to sell all or a substantial part of its assets or merge or consolidate  
12          it or exchange its shares with any other person, to change the location  
13          of its principal place of ~~business~~ business or its principal executive  
14          office or of a material portion of its business activities, to change  
15          materially its management or policies of employment, to change ma-  
16          terially its charitable or community contributions or its policies,  
17          programs or practices relating thereto, to change materially its re-  
18          lationship with suppliers or customers or the communities in which it  
19          operates or to make any other material change in its business, corporate  
20          structure, management or personnel and such other objective facts as  
21          would be substantially likely to affect the decision of a shareholder  
22          with respect to voting on the control share ~~acquisition~~ acquisition.

23          (2) If any material change occurs in the facts set forth in the infor-  
24          mation statement, including any material increase or decrease in the number  
25          of shares of the issuing public corporation acquired or proposed to be ac-  
26          quired by the persons identified pursuant to subsection (1) (a) of this sec-  
27          tion, the acquiring person shall promptly deliver to the issuing public cor-  
28          poration at its principal executive office an amendment to the information  
29          statement containing information relating to such material change. An in-  
30          crease or decrease or proposed increase or decrease equal, in the aggregate  
31          for all persons identified pursuant to subsection (1) (a) of this section, to  
32          one ~~per cent~~ percent (1%) or more of the total number of outstanding shares of  
33          any class or series of the issuing public corporation is deemed material for  
34          purposes of this subsection. An increase or decrease or proposed increase or  
35          decrease of less than this amount may be material, depending on the facts and  
36          circumstances.

37          SECTION 18. That Section 30-1705, Idaho Code, be, and the same is hereby  
38          amended to read as follows:

39          30-1705. REQUIREMENTS. Except as provided in sections 30-1703 and  
40          30-1704, Idaho Code, and notwithstanding any other provisions to the con-  
41          trary in this title, an issuing public corporation may not engage at any time  
42          in any business combination or vote, consent or otherwise act to authorize  
43          a subsidiary of the issuing public corporation to engage in any business  
44          combination with respect to, proposed by or on behalf of or pursuant to any  
45          agreement, arrangement or understanding, whether or not in writing, with an  
46          interested shareholder of the issuing public corporation or any affiliate or  
47          associate of the interested shareholder other than a business combination  
48          meeting all the requirements of this chapter, the articles of the issuing  
49          public corporation and the requirements specified in any of the following:

1 (1) A business combination approved by the board of the issuing public  
2 corporation before the interested shareholder's share acquisition date, or  
3 as to which the acquisition of shares made by the interested shareholder on  
4 the interested shareholder's share acquisition date had been approved by the  
5 board of the issuing public corporation before the interested shareholder's  
6 share acquisition date.

7 (2) A business combination approved by the affirmative vote of the  
8 holders of sixty-six and two-thirds ~~per cent~~ percent (66 2/3%) of the out-  
9 standing shares entitled to vote not beneficially owned by the interested  
10 shareholder proposing the business combination or any affiliate or asso-  
11 ciate of the interested shareholder proposing the business combination at  
12 a meeting called for that purpose no earlier than three (3) years after the  
13 interested shareholder's share acquisition date.

14 (3) A business combination, with respect to which the consummation date  
15 is no earlier than three (3) years after the interested shareholder's share  
16 acquisition date, that meets all the following conditions:

17 (a) The aggregate amount of the cash and the market value as of the con-  
18 summation date of consideration other than cash to be received per share  
19 by holders of outstanding common shares of the issuing public corpora-  
20 tion in the business combination is at least equal to the higher of the  
21 following:

22 1. The highest per share price, ~~(including any brokerage commis-~~  
23 ~~sions, transfer taxes, and soliciting dealers' fees),~~ paid by the  
24 interested shareholder, at a time when the interested shareholder  
25 was the beneficial owner, directly or indirectly, of five ~~per cent~~  
26 percent (5%) or more of the outstanding shares entitled to vote of  
27 the issuing public corporation, for any common shares of the same  
28 class or series acquired by it within the three (3) year period im-  
29 mediately before the announcement date with respect to the busi-  
30 ness combination or within the three (3) year period immediately  
31 before, or in, the transaction in which the interested shareholder  
32 became an interested shareholder, whichever is higher, plus, in  
33 either case, interest compounded annually from the earliest date  
34 on which the highest per share acquisition price was paid through  
35 the consummation date at the rate for one (1) year United States  
36 treasury obligations from time to time in effect less the aggre-  
37 gate amount of cash dividends paid, and the market value of any  
38 dividends paid other than in cash, per common share since the ear-  
39 liest date, up to the amount of the interest; and

40 2. The market value per common share on the announcement date  
41 with respect to the business combination or on the interested  
42 shareholder's share acquisition date, whichever is higher, plus  
43 interest compounded annually from that date through the consum-  
44 mation date at the rate for one (1) year United States treasury  
45 obligations from time to time in effect less the aggregate amount  
46 of any cash dividends paid and the market value of any dividends  
47 paid other than in cash, per common share since that date, up to the  
48 amount of the interest.

49 (b) The aggregate amount of the cash and the market value as of the con-  
50 summation date of consideration other than cash to be received per share

1 by holders of outstanding shares of any class or series of shares, other  
2 than common shares, of the issuing public corporation in the business  
3 combination is at least equal to the highest of the following, whether  
4 or not the interested shareholder has previously acquired any shares of  
5 the class or series:

6 1. The highest per share price, ~~(including any brokerage~~  
7 ~~commissions~~ commissions, transfer taxes, and soliciting deal-  
8 ers' fees), paid by the interested shareholder, at a time when the  
9 interested shareholder was the beneficial owner, directly or in-  
10 directly, of five ~~per cent~~ percent (5%) or more of the outstanding  
11 shares entitled to vote of the issuing public corporation, for any  
12 shares of the class or series acquired by it within the three (3)  
13 year period immediately before the announcement date with respect  
14 to the business combination or within the three (3) year period  
15 immediately before, or in, the transaction in which the inter-  
16 ested shareholder became an interested shareholder, whichever is  
17 higher, plus, in either case, interest compounded annually from  
18 the earliest date on which the highest per share acquisition price  
19 was paid through the consummation date at the rate for one (1) year  
20 United States treasury obligations from time to time in effect  
21 less the aggregate amount of any cash dividends paid and the market  
22 value of any dividends paid other than in cash, per share of the  
23 class or series since such earliest date, up to the amount of the  
24 interest;

25 2. The highest preferential amount per share to which the holders  
26 of shares of the class or series are entitled in the event of any  
27 voluntary liquidation, dissolution or winding up of the issuing  
28 public corporation, plus the aggregate amount of any unpaid divi-  
29 dends declared or due as to which the holders are ~~entitle~~ entitled  
30 before payment of dividends on some other class or series of shares  
31 unless the aggregate amount of the dividends is included in the  
32 preferential amount; and

33 3. The market value per share of the class or series on the an-  
34 nouncement date with respect to the business combination or on the  
35 interested shareholder's share acquisition date, whichever is  
36 higher, plus interest compounded annually from that date through  
37 the consummation date at the rate for one (1) year United States  
38 treasury obligations from time to time in effect less the aggre-  
39 gate amount of any cash dividends paid and the market value of any  
40 dividends paid other than in cash, per share of the class or series  
41 since that date, up to the amount of the interest.

42 (c) The consideration to be received by holders of a particular class or  
43 series of outstanding shares, including common shares, of the issuing  
44 public corporation in the business combination is in cash or in the same  
45 form as the interested shareholder has used to acquire the largest num-  
46 ber of shares of the class or series of shares previously acquired by it  
47 and the consideration is distributed promptly.

48 (d) The holders of all outstanding shares of the issuing public cor-  
49 poration not beneficially owned by the interested shareholder immedi-  
50 ately before the consummation date with respect to the business combi-

1 nation are entitled to receive in the business combination cash or other  
2 consideration for the shares in compliance with paragraphs (a), (b) and  
3 (c) of this subsection.

4 (e) After the interested shareholder's share acquisition date and be-  
5 fore the consummation date with respect to the business combination,  
6 the interested shareholder has not become the beneficial owner of any  
7 additional shares entitled to vote of the issuing public corporation  
8 except:

9 1. As part of the transaction that resulted in the interested  
10 shareholder becoming an interested shareholder;

11 2. By virtue of proportionate share splits, share dividends or  
12 other distributions of shares in respect of shares not constitut-  
13 ing a business combination;

14 3. Through a business combination meeting all of the conditions of  
15 section 30-1704, Idaho Code, and this subsection; and

16 4. Through purchase by the interested shareholder at any price  
17 that, if the price had been paid in an otherwise permissible busi-  
18 ness combination the announcement date and consummation date of  
19 which were the date of the purchase, would have satisfied the re-  
20 quirements of paragraphs (a), (b) and (c) of this subsection.

21 SECTION 19. That Section 31-3403, Idaho Code, be, and the same is hereby  
22 amended to read as follows:

23 31-3403. DEFINITIONS. As used in this chapter:

24 (1) "Adult household member" means any individual eighteen (18) years  
25 of age and over who resides in the household.

26 (2) "Anticipated future income" means a reasonable expectation of in-  
27 come to the household based on an analysis of past income, future income,  
28 current income, experience, skills, education, inheritance and possible as-  
29 sets from any source.

30 (3) "Applicant" means the individual and all others in the household  
31 who are requesting nonmedical assistance, and who submit a county applica-  
32 tion.

33 (4) "Assets" means property rights including, but not limited to, per-  
34 sonal, real, tangible and intangible property.

35 (5) "Authorized representative" means the applicant's guardian or ap-  
36 pointed attorney-in-fact.

37 (6) "Board" means a board of county commissioners.

38 (7) "Clerk" means the clerk of a board of county commissioners or his  
39 designee.

40 (8) "Emergency" means any circumstance demanding immediate action.

41 (9) "Household" means a collective body of persons consisting of  
42 spouses or parents and their children who reside in the same residence; or  
43 all other persons who by choice or necessity are mutually dependent upon each  
44 other for basic necessities and who reside in the same residence.

45 (10) "Indigent" means any applicant who does not have resources avail-  
46 able from whatever source which shall be sufficient to enable the applicant  
47 to provide nonmedical assistance or a portion thereof.

48 (11) "Information release" means the document authorizing release of  
49 confidential information.

1 (12) "Investigation" means a detailed examination of the application  
2 and information required from the applicant and others to verify eligibil-  
3 ity.

4 (13) "Nonmedical assistance" means reasonable costs for assistance,  
5 which includes food and shelter, and other such necessary services deter-  
6 mined by the board by resolution.

7 (14) "Obligated county for payment" means the county wherein residency  
8 has been established.

9 (15) "Recipient" means the individual(s) determined eligible for  
10 county assistance.

11 (16) "Repayment" means the authority of the board of county commission-  
12 ers to require indigent person(s) to repay the county for assistance when in-  
13 vestigation of their application determines their ability to do so.

14 (17) "Resident" means a person with a home, house, place of abode, place  
15 of habitation, dwelling or place where one actually lived for a consecutive  
16 period of thirty (30) days or more prior to the date of application.

17 (18) "Resource" means assets, whether tangible or intangible, real or  
18 personal, liquid or nonliquid, including, but not limited to, gifts, be-  
19 quests, grants, all forms of public or private assistance, crime ~~victim's~~  
20 victims compensation, worker's compensation, veteran's benefits, medicaid,  
21 medicare and any other property from any source for which an applicant and/or  
22 an obligated person may be eligible or in which he or she may have an inter-  
23 est. For purposes of determining approval for nonmedical indigency only,  
24 resources shall not include the value of the homestead of the applicant or  
25 obligated person's residence, a burial plot, exemptions for personal prop-  
26 erty allowed in section 11-605(1) through (3), Idaho Code, and additional  
27 exemptions allowed by county resolution.

28 SECTION 20. That Section 31-3505, Idaho Code, be, and the same is hereby  
29 amended to read as follows:

30 31-3505. TIME AND MANNER OF FILING APPLICATIONS FOR FINANCIAL ASSIS-  
31 TANCE. Applications for financial assistance shall be filed according to the  
32 following time limits. Filing is complete upon receipt by the clerk or the  
33 department.

34 (1) A completed application for nonemergency necessary medical ser-  
35 vices shall be filed with the clerk ten (10) days prior to receiving services  
36 from the provider or the hospital.

37 (2) A completed application for emergency necessary medical services  
38 shall be filed with the clerk any time within thirty-one (31) days beginning  
39 with the first day of the provision of necessary medical services from the  
40 provider, except as provided in subsection (3) of this section.

41 (3) In the case of hospitalization, a completed application for emer-  
42 gency necessary medical services shall be filed with the department any time  
43 within thirty-one (31) days of the date of admission.

44 (4) Requests for additional treatment related to an original diagnosis  
45 in accordance with a preapproved treatment plan shall be filed ten (10) days  
46 prior to receiving services.

47 (5) A delayed application for necessary medical services may be filed  
48 up to one hundred eighty (180) days beginning with the first day of the provi-  
49 sion of necessary medical services provided that:

1 (a) Written documentation is included with the application or no later  
 2 than forty-five (45) days after an application has been filed showing  
 3 that a bona fide application or claim has been filed for social security  
 4 disability insurance, supplemental security income, third party insur-  
 5 ance, medicaid, medicare, crime ~~victim's~~ victims compensation, and/or  
 6 worker's compensation. A bona fide application means that:

7 (i) The application was timely filed within the appropriate  
 8 agency's application or claim time period; and

9 (ii) Given the circumstances of the patient and/or obligated per-  
 10 sons, the patient and/or obligated persons, and given the informa-  
 11 tion available at the time the application or claim for other re-  
 12 sources is filed, would reasonably be expected to meet the eligi-  
 13 bility criteria for such resources; and

14 (iii) The application was filed with the appropriate agency in  
 15 such a time and manner that, if approved, it would provide for pay-  
 16 ment coverage of the bills included in the county application; and

17 (iv) In the discretion of the county commissioners, bills on a de-  
 18 layed application which would not have been covered by a success-  
 19 ful application or timely claim to the other resource(s) may be de-  
 20 nied by the county commissioners as untimely; and

21 (v) In the event an application is filed for supplemental security  
 22 income, an Idaho medicaid application must also have been filed  
 23 within the department of health and welfare's application or claim  
 24 time period to provide payment coverage of eligible bills included  
 25 in the county application.

26 (b) Failure by the patient and/or obligated persons to complete the  
 27 application process described in this section, up to and including any  
 28 reasonable appeal of any denial of benefits, with the applicable pro-  
 29 gram noted in paragraph (a) of this subsection, shall result in denial  
 30 of the application.

31 (6) No application for financial assistance under the county medically  
 32 indigent program or the catastrophic health care cost program shall be ap-  
 33 proved by the county commissioners or the board unless the provider or the  
 34 hospital completes the application process and complies with the time limits  
 35 prescribed by this chapter.

36 (7) Any application or request which fails to meet the provisions of  
 37 this section, and/or other provisions of this chapter, shall be denied.

38 (8) In the event that a county determines that a different county is  
 39 obligated, such county shall notify the applicant or third party applicant  
 40 of the denial and shall also notify the county it believes to be the obli-  
 41 gated county and provide the basis for the determination. An application may  
 42 be filed by the applicant or third party applicant in the indicated county  
 43 within thirty (30) days of the date of the initial county denial.

44 SECTION 21. That Section 31-4819, Idaho Code, be, and the same is hereby  
 45 amended to read as follows:

46 31-4819. ENHANCED EMERGENCY COMMUNICATIONS GRANT FEE. (1) ~~Effective~~  
 47 ~~from~~ On and after July 1, 2013, there shall be an enhanced emergency commu-  
 48 nications grant fee established by virtue of authority granted by this chap-



1 ter. The fee shall be twenty-five cents (25¢) per month per access or inter-  
2 connected VoIP service line.

3 (a) Such fee shall be authorized by resolution of a majority vote of the  
4 board of commissioners of a countywide system or by the governing board  
5 of a 911 service area.

6 (b) Such fee shall be remitted to the Idaho emergency communications  
7 fund provided in section 31-4818(1), Idaho Code, on a quarterly basis  
8 by county, city or consolidated emergency communications systems. Such  
9 fee shall be dedicated for and shall be authorized for disbursement as  
10 grants to eligible entities that are operating consolidated emergency  
11 communications systems for use to achieve the purposes of this chapter.

12 (e2) The commission, on an annual basis, shall prepare a budget allo-  
13 cating the grant funds available to eligible entities and the portion of the  
14 funds necessary for the continuous operation of the commission to achieve  
15 the purposes of this chapter.

16 (e3) To be eligible for grant funds under this chapter, a county or 911  
17 service area must be collecting the emergency communications fee in accor-  
18 dance with section 31-4804, Idaho Code, in the full amount authorized and  
19 must also be collecting the enhanced emergency communications grant fee in  
20 the full amount authorized in this subsection.

21 (e4) If a county or 911 service area has authorized the collection of  
22 the enhanced emergency communications grant fee pursuant to this chapter,  
23 such county or 911 service area shall retain the full amount of the emergency  
24 communications fee that was set by the board of commissioners or governing  
25 board pursuant to section 31-4803, Idaho Code. The county or 911 service  
26 area is then also exempt from remitting to the Idaho emergency communica-  
27 tions commission one percent (1%) of the total emergency communications fee  
28 received by the county or 911 service area as required in section 31-4818(3),  
29 Idaho Code. The remaining funds from the enhanced emergency communications  
30 grant fee collected shall then be remitted by the county or 911 service area  
31 to the Idaho emergency communications commission.

32 SECTION 22. That Section 33-1602, Idaho Code, be, and the same is hereby  
33 amended to read as follows:

34 33-1602. UNITED STATES CONSTITUTION -- NATIONAL FLAG AND COLORS -- NA-  
35 TIONAL ANTHEM -- "AMERICA" -- CITIZENSHIP. (1) Instruction in the Consti-  
36 tution of the United States shall be given in all elementary and secondary  
37 schools. The state board of education shall adopt such materials as may be  
38 deemed necessary for said purpose, and shall also determine the grades in  
39 which such instruction shall be given.

40 (2) Instruction in the proper use, display and history of and respect  
41 for the American flag and the national colors shall be given in all elemen-  
42 tary and secondary schools. Such instruction shall include the pledge of  
43 allegiance to the flag, the words and music of the national anthem, and of  
44 "America."

45 (3) Every school board of trustees shall cause the United States flag to  
46 be displayed in every classroom during the school hours of each school day.

47 (4) Every public school shall offer the pledge of allegiance or the na-  
48 tional anthem in grades one (1) through twelve (12) at the beginning of each  
49 school day.

1 (5) No pupil shall be compelled, against the pupil's objections or  
2 those of the pupil's parent or guardian, to recite the pledge of allegiance  
3 or to sing the national anthem.

4 (36) Instruction in citizenship shall be given in all elementary and  
5 secondary schools. Citizenship instruction shall include lessons on the  
6 role of a citizen in a constitutional republic, how laws are made, how of-  
7 ficials are elected, and the importance of voting and of participating in  
8 government. Such instruction shall also include the importance of respect-  
9 ing and obeying statutes which are validly and lawfully enacted by the Idaho  
10 legislature and the congress of the United States.

11 SECTION 23. That Section 38-1019, Idaho Code, be, and the same is hereby  
12 amended to read as follows:

13 38-1019. WARRANTS. The board of commissioners may issue warrants of  
14 such district in payment of claims of indebtedness against such district.  
15 Such warrants shall be in form and substance the same as county warrants, or  
16 as near the same as may be practicable, and shall draw interest ~~at~~ from the  
17 date of issue at a rate established by the board of commissioners. They must  
18 be signed by the chairman and attested by the secretary of said board: pro-  
19 vided, that no warrant shall be issued by said board of commissioners in pay-  
20 ment of any indebtedness of such district for less than the face or par value.

21 SECTION 24. That Section 40-312, Idaho Code, be, and the same is hereby  
22 amended to read as follows:

23 40-312. POWERS AND DUTIES -- RULES AND REGULATIONS. The board shall:

24 (1) Prescribe rules and regulations affecting state highways and turn-  
25 pike projects, and enforce compliance with those rules and regulations.

26 (2) Establish rules and regulations for the expenditure of all moneys  
27 appropriated or allotted by law to the department or the board. The board  
28 shall cooperate with the counties and highway districts in the expenditure  
29 of funds and shall establish a uniform system of accounting in the expendi-  
30 ture of moneys and a uniform method for allocation of funds, by counties and  
31 highway districts as shall be necessary in the construction and maintenance  
32 of highways by counties and districts in cooperation with the state and the  
33 United States, or either, but the initiatory power of expenditure of any of  
34 those moneys shall rest with the county or district in which expenditure of  
35 the moneys mentioned is to be made.

36 (3) Make reasonable regulations for the installation, construction,  
37 maintenance, repair, renewal and relocation of facilities of any utility or  
38 communication transmitting entity, in, on, along, over, across, through or  
39 under any project on the federal-aid primary or secondary systems or on the  
40 interstate system, including extensions within urban areas. Whenever the  
41 board shall determine, after notice and opportunity for hearing, that it is  
42 necessary that any facilities which now are, or hereafter may be, located in,  
43 on, along, over, across, through or under any federal-aid primary or sec-  
44 ondary system or on the interstate system, including extensions within urban  
45 areas, should be relocated, the utility owning or operating the facilities  
46 shall relocate them in accordance with the order of the board. In case of any  
47 relocation of facilities, the utility owning or operating the facilities,

1 its successors or assigns, may maintain and operate the facilities, with the  
2 necessary appurtenances, in the new location or locations.

3 (4) Prescribe and enforce regulations for the erection and mainte-  
4 nance of advertising structures permitted by sections 40-1909, 40-1913, and  
5 40-1914, Idaho Code, designed to protect the safety of the users of the high-  
6 way and otherwise to achieve the objectives set forth in section 40-1903,  
7 Idaho Code, and consistent with the national policy set forth in ~~section 131,~~  
8 ~~title 23, United States Code,~~ 23 U.S.C. 131 and the national standards pro-  
9 mulgated by the secretary of transportation. The board shall not prescribe  
10 or enforce rules or regulations that are more restrictive than those autho-  
11 rized under ~~section 131, title 23, United States Code~~ 23 U.S.C. 131. Pro-  
12 ceedings for review of any action taken by the board pursuant to this section  
13 shall be instituted under the provisions of chapter 52, title 67, Idaho Code.

14 (5) Prescribe rules and regulations to implement the provisions of  
15 chapter 20, title 40, Idaho Code, and other rules and regulations relating  
16 to relocation assistance as may be necessary under existing federal laws and  
17 rules and regulations promulgated thereunder. Rules and regulations shall  
18 include provisions relating to:

19 (a) Standards for decent, safe and sanitary dwellings;

20 (b) Eligibility of displaced persons for relocation assistance pay-  
21 ments, procedural methods whereby persons may make application for and  
22 claim payments and the amounts of them; and

23 (c) Other rules and regulations consistent with the provisions of chap-  
24 ter 20, title 40, Idaho Code, as are considered necessary or appropriate  
25 to carry out the provisions of that chapter.

26 (6) Establish by rule a statewide comprehensive plan for public trans-  
27 portation.

28 (~~6~~7) Prescribe rules and regulations to encourage the use of recycled  
29 materials in highway construction and repair projects.

30 SECTION 25. That Section 40-317, Idaho Code, be, and the same is hereby  
31 amended to read as follows:

32 40-317. POWERS AND DUTIES -- COOPERATIVE EFFORTS. The board may:

33 (1) Cooperate with, and receive and expend aid and donations from, the  
34 federal government for transportation purposes, and receive and expend do-  
35 nations from other sources for the construction and improvement of any state  
36 highway or transportation project or any project on the federal-aid primary  
37 or secondary systems or on the interstate system, including extensions of  
38 them within urban areas; and, when authorized or directed by any act of con-  
39 gress or any rule or regulation of any agency of the federal government, ex-  
40 pend funds donated or granted to the state of Idaho by the federal government  
41 for that purpose, upon highways and bridges not in the state highway system.

42 (2) Contract jointly with counties, cities, and highway districts for  
43 the improvement and construction of state highways.

44 (3) Cooperate with the federal government, counties, highway dis-  
45 tricts, and cities for construction, improvement, and maintenance of  
46 secondary or feeder highways not in the state highway system.

47 (4) Cooperate financially or otherwise with any other state or any  
48 county or city of any other state, or with any foreign country or any province  
49 or district of any foreign country, or with the government of the United

1 States or its agencies, or private agencies or persons, for the erecting,  
2 construction, reconstructing, and maintaining of any bridge, trestle, or  
3 other structure for the continuation or connection of any state highway  
4 across any stream, body of water, gulch, navigable water, swamp or other  
5 topographical formation requiring any such structure and forming a boundary  
6 between the state of Idaho and any other state or foreign country, and for the  
7 purchase or condemnation or other acquisition of right-of-way.

8 (5) Serve as the state's representative in the designation of forest  
9 highways within the state.

10 (6) Negotiate and enter into bilateral agreements with designated rep-  
11 resentatives of contiguous states. Agreements may provide for the manning  
12 and operation of jointly occupied ports of entry, for the collection of  
13 highway user fees, registration fees and taxes which may be required by law,  
14 rule and regulation. Agreements may further provide for the collection of  
15 these fees and taxes by either party state at jointly occupied ports of entry  
16 before authorization is given for vehicles to legally operate within that  
17 state or jurisdiction, and for the enforcement of safety, size and weight  
18 laws, rules or regulations of the respective states. As to the provisions  
19 of chapter 30, title 63, ~~chapter 30,~~ Idaho Code, the state tax commission  
20 is hereby authorized to enter into reciprocal agreements with other states  
21 concerning the exemption of, or taxation of, persons employed by the state  
22 of Idaho or of another state in jointly operated ports of entry. As used  
23 ~~is~~ in this section, "jointly operated ports of entry" shall mean any state  
24 operated facility located within or without this state that employs persons  
25 that are direct employees of the state of Idaho and of another state which  
26 operates for the mutual benefit of both states.

27 (7) Pursuant to the authority and process defined in sections 67-2328  
28 and 67-2333, Idaho Code, enter into agreements with authorized represen-  
29 tatives of contiguous states for the purpose of establishing reciprocal  
30 procedures allowing the Idaho transportation department and contiguous  
31 state motor vehicle departments to collect fees for and to issue driver's  
32 licenses and identification cards to nonresident individuals in the same  
33 manner as would be issued in the individual's home state, provided that no  
34 Idaho driver's license or Idaho identification card may be issued to a non-  
35 resident of the state of Idaho and that any reciprocal agreement under this  
36 provision shall otherwise be consistent with the driver license compact,  
37 chapter 20, title 49, Idaho Code.

38 (8) Enter into all contracts and agreements with the United States gov-  
39 ernment in the name of the state of Idaho, relating to the survey, construc-  
40 tion and maintenance of roads, under the provisions of any act of congress  
41 including county and city highways, and submit a program of construction and  
42 maintenance as may be required by the United States government or any of its  
43 agencies, and do all other things necessary to cooperate and complete those  
44 programs.

45 SECTION 26. That Section 41-716, Idaho Code, be, and the same is hereby  
46 amended to read as follows:

47 41-716. INVESTMENT TRUST SECURITIES. (1) An insurer may invest in the  
48 securities of any open-end management type investment company or invest-  
49 ment trust registered with the federal securities and exchange commission

1 under the ~~I~~investment ~~C~~company ~~A~~act of 1940 as from time to time amended,  
2 if such investment company or trust has been organized for not less than  
3 three (3) years and has assets of not less than twenty-five million dollars  
4 (\$25,000,000) as at the date of investment by the insurer. The aggregate  
5 amount invested under this section shall not exceed twenty-five percent  
6 (25%) of the insurer's assets with limitations of five percent (5%) of the  
7 insurer's assets in any one (1) fund and ten percent (10%) of the insurer's  
8 assets in any one (1) fund family.

9 (2) For the purpose of determining the investment limitation imposed by  
10 this section ~~41-716, Idaho Code~~, the insurer shall value securities subject  
11 to the provisions of this section ~~41-716, Idaho Code~~, at the cost of the secu-  
12 rity or at the market value of the security, whichever is lower.

13 SECTION 27. That Section 41-3813, Idaho Code, be, and the same is hereby  
14 amended to read as follows:

15 41-3813. MANAGEMENT OF DOMESTIC INSURERS SUBJECT TO REGISTRATION. (1)  
16 Notwithstanding the control of a domestic insurer by any person, the offi-  
17 cers and directors of the insurer shall not thereby be relieved of any obli-  
18 gation or liability to which they would otherwise be subject by law, and the  
19 insurer shall be managed so as to assure its separate operating identity con-  
20 sistent with this chapter.

21 (2) Nothing in this section shall preclude a domestic insurer from hav-  
22 ing or sharing a common management or cooperative or joint use of personnel,  
23 property or services with one (1) or more other persons under arrangements  
24 meeting the standards of section 41-3810(1), Idaho Code.

25 (3) Not less than one-third (1/3) of the directors of a domestic in-  
26 surer, and not less than one-third (1/3) of the members of each committee  
27 of the board of directors of any domestic insurer, shall be persons who are  
28 not officers or employees of the insurer or of any entity controlling, con-  
29 trolled by or under common control with the insurer and who are not benefi-  
30 cial owners of a controlling interest in the voting stock of the insurer or  
31 entity. At least one (1) person must be included in any quorum for the trans-  
32 action of business at any meeting of the board of directors or any committee  
33 thereof.

34 (4) The board of directors of a domestic insurer shall establish one (1)  
35 or more committees comprised solely of directors who are not officers or em-  
36 ployees of the insurer or of any entity controlling, controlled by or under  
37 common control with the insurer and who are not beneficial owners of a con-  
38 trolling interest in the voting stock of the insurer or any such entity. The  
39 committee or committees shall have responsibility for nominating candidates  
40 for director for election by shareholders or policyholders, evaluating the  
41 performance of officers deemed to be principal officers of the insurer and  
42 recommending to the board of directors the selection and compensation of the  
43 principal officers.

44 (5) The provisions of subsections (3) and (4) of this section shall not  
45 apply to a domestic insurer if the person controlling the insurer, such as an  
46 insurer, a mutual insurance holding company or a publicly held corporation,  
47 has a board of directors and committees thereof that meet the requirements  
48 of subsections (3) and (4) of this section with respect to such controlling  
49 entity.

1 (6) An insurer may make application to the director for a waiver from  
2 the requirements of this section, if the insurer's annual direct written and  
3 assumed premium, excluding premiums reinsured with the federal crop insur-  
4 ance corporation and ~~federal~~ national flood insurance program, is less than  
5 three hundred million dollars (\$300,000,000). An insurer may also make ap-  
6 plication to the director for a waiver from the requirements of this section  
7 based upon unique circumstances. The director may consider various factors  
8 including, but not limited to, the type of business entity, volume of busi-  
9 ness written, availability of qualified board members or the ownership or  
10 organizational structure of the entity.

11 SECTION 28. That Section 42-1736, Idaho Code, be, and the same is hereby  
12 repealed.

13 SECTION 29. That Section 49-244, Idaho Code, be, and the same is hereby  
14 amended to read as follows:

15 49-244. IDAHO RESIDENCY AND DOMICILE REQUIREMENTS -- INDIAN RESERVA-  
16 TIONS. Notwithstanding the residency and domicile requirements provided for  
17 in chapters 1, 4 and 5 of ~~this~~ title 49, Idaho Code, enrolled tribal members,  
18 residing and domiciled within the boundaries of a federally recognized In-  
19 dian reservation, which boundaries are located in whole or in part within  
20 this state, shall be considered Idaho residents for purposes of vehicle reg-  
21 istration and vehicle titling in Idaho.

22 SECTION 30. That Section 49-420J, Idaho Code, be, and the same is hereby  
23 amended to read as follows:

24 49-420J. SELWAY-BITTERROOT WILDERNESS PLATES. (1) Any person who is  
25 the owner of a vehicle registered under the provisions of section 49-402,  
26 Idaho Code, may apply for and upon department approval receive special Idaho  
27 Selway-Bitterroot wilderness license plates in lieu of regular license  
28 plates. The provisions of this section shall not apply to any vehicle with a  
29 registered maximum gross weight over twenty-six thousand (26,000) pounds.  
30 Availability of Selway-Bitterroot wilderness plates for other vehicles  
31 shall be subject to the rules, policies and procedures of the department.

32 (2) In addition to the regular registration fee required in chapter 4,  
33 title 49, Idaho Code, the applicant shall be charged a fee of thirty-five  
34 dollars (\$35.00) for the initial issuance of plates and twenty-five dol-  
35 lars (\$25.00) upon each succeeding annual registration. Thirteen dollars  
36 (\$13.00) of the initial fee and thirteen dollars (\$13.00) of the renewal fee  
37 shall be deposited in the state highway account and shall be used to fund the  
38 cost of administration of this special license plate program. Twenty-two  
39 dollars (\$22.00) of each initial fee and twelve dollars (\$12.00) of each  
40 renewal fee shall be transferred by the state treasurer to the Selway-Bit-  
41 terroot ~~F~~oundation, and shall be used by the foundation for the purpose of  
42 assisting in the stewardship of the Idaho Selway-Bitterroot wilderness and  
43 surrounding wildlands of north central Idaho.

44 (3) Whenever title or interest in a vehicle registered under the pro-  
45 visions of this section is transferred or assigned, the owner may transfer  
46 the special plates to another vehicle upon payment of the required transfer

1 fees. The owner may only display the plates on another vehicle upon receipt  
2 of the new registration from the department.

3 (4) The license plate design shall be acceptable to the Selway-Bitter-  
4 root Foundation and shall be approved by the department and shall utilize a  
5 numbering system as determined by the department. Initial costs of the plate  
6 program, including costs of plate design, shall be paid by the Selway-Bit-  
7 terroot Foundation.

8 (5) Sample Idaho Selway-Bitterroot wilderness license plates may be  
9 purchased for a fee of thirty dollars (\$30.00), thirteen dollars (\$13.00)  
10 of which shall be deposited in the state highway account and seventeen  
11 dollars (\$17.00) of which shall be transferred to the Selway-Bitterroot  
12 Foundation.

13 SECTION 31. That the Heading for Chapter 19, Title 49, Idaho Code, be,  
14 and the same is hereby amended to read as follows:

15 CHAPTER 19

16 MULTISTATE HIGHWAY WESTERN STATES TRANSPORTATION AGREEMENT

17 SECTION 32. That Section 54-1218, Idaho Code, be, and the same is hereby  
18 amended to read as follows:

19 54-1218. PUBLIC WORKS. (1) It shall be unlawful for this state, or for  
20 any county, city, school district, irrigation district, drainage district,  
21 highway district, or other subdivision of the state, having power to levy  
22 taxes or assessments against property situated therein, to engage in the  
23 construction of any public works when the public health or safety is involved  
24 unless the plans and specifications and estimates have been prepared by, and  
25 the construction reviewed by, a professional engineer.

26 (2) The provisions of this section shall not apply to public construc-  
27 tion, reconstruction, maintenance and repair work that is insignificant,  
28 that is projects of less than ten thousand dollars (\$10,000) in total cost,  
29 performed by employees of the public agency and performed in accordance with  
30 standards for such work that have been certified by a professional engineer  
31 and duly adopted by the public agency's governing body including, but not  
32 limited to, the Idaho standards for public works construction and any sup-  
33 plements thereto, and only if a professional engineer determines that such  
34 public construction, reconstruction, maintenance and repair work does not  
35 represent a material risk to public health or safety.

36 SECTION 33. That Section 54-2706, Idaho Code, be, and the same is hereby  
37 amended to read as follows:

38 54-2706. PRESERVING EVIDENCE OF METAL THEFT. ~~(1)~~ Following notifi-  
39 cation, either verbally or in writing, from a commissioned law enforcement  
40 officer of the state or any of its political subdivisions, that an item of  
41 nonferrous metal property, stainless steel, or commercial metal property  
42 has been reported as stolen, a scrap metal business shall hold that property  
43 intact and safe from alteration, damage, or commingling, and shall place an  
44 identifying tag or other suitable identification upon the property. The  
45 scrap metal business shall hold the property for a period of time as directed

1 by the applicable law enforcement agency up to a maximum of ten (10) business  
2 days.

3 SECTION 34. That Section 58-310, Idaho Code, be, and the same is hereby  
4 amended to read as follows:

5 58-310. TWO OR MORE APPLICANTS FOR SAME LAND -- AUCTION OF LEASE. Ex-  
6 cept as otherwise authorized ~~in sections 58-310A and 58-310B, Idaho Code:~~

7 (1) When two (2) or more persons apply to lease the same land, the direc-  
8 tor of the department of lands, or his agent, shall, at a stated time, and at  
9 such place as he may designate, auction off and lease the land to the appli-  
10 cant who will pay the highest premium bid therefor, the annual rental to be  
11 established by the state board of land commissioners.

12 (2) The director shall give notice by letter at least fourteen (14) days  
13 prior to the date of such auction, which notice shall be sent in the course of  
14 regular mail, to each of the applicants, notifying them of the time and place  
15 such auction is to be held. The notice shall be sent to the name and address  
16 exactly as it is given in the application.

17 (3) If any applicants fail to appear in person or by proxy at the time  
18 and place so designated in said notice, the director may proceed to auction  
19 and lease any part or all of the lands applied for.

20 (4) The state board of land commissioners shall have power to reject any  
21 and all bids made at such auction sales, when in their judgment there has been  
22 fraud or collusion, or for any other reason, which in the judgment of said  
23 state board of land commissioners justified the rejection of said bids.

24 (5) The challenger of the current lease shall be required to provide  
25 payment of one (1) year's rental on the lease payable at the time of appli-  
26 cation to lease. If the amount of the annual rental bid be not paid forth-  
27 with by the successful bidder, together with the expense of such sale, if the  
28 state board of land commissioners shall require the same to be paid as here-  
29 inbefore provided, or if for any reason the successful bidder does not accept  
30 the lease on the terms offered, the lease may be immediately reoffered in the  
31 same manner at public auction, without further notice.

32 (6) Only those persons who have filed applications in the manner and at  
33 the time provided for by statute or rule shall be permitted to bid at any such  
34 auction for the lease of state lands.

35 SECTION 35. That Sections [58-310A](#) and [58-310B](#), Idaho Code, be, and the  
36 same are hereby repealed.

37 SECTION 36. That Section 67-3002, Idaho Code, be, and the same is hereby  
38 amended to read as follows:

39 67-3002. POSITIVE IDENTIFICATION -- FINGERPRINTS REQUIRED. To ensure  
40 positive identification and system integrity, criminal history records  
41 shall be supported by fingerprints, which may be maintained manually, elec-  
42 tronically or on optical disk. The records shall be linked to an automated  
43 fingerprint identification system. For the purpose of including prescribed  
44 information categories, the system may be linked with databases maintained  
45 by other state agencies. Whenever possible, the reporting of information by  
46 criminal justice agencies relating to the categories identified in section



1 67-3001(4), Idaho Code, shall be conducted electronically or by magnetic  
2 medium. Any technology used in this process will conform to the standards,  
3 guidelines and conventions established by the ~~information technology re-~~  
4 ~~source management council~~ Idaho technology authority.