

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 91

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE PUBLIC RECORDS ACT; AMENDING SECTIONS 1-2103, 6-1001,
2 6-1008, 6-1010, 6-2301, 6-2303, 7-1408, 7-1416, 9-806, 9-808,
3 15-5-602, 16-1513, 16-1629, 18-609A, 18-1359, 18-3302, 18-3302H,
4 18-3302K, 19-1112, 19-5514, 19-5801, 19-5803, 20-226, 20-511, 20-516,
5 20-525, 20-804, 22-606, 22-609, 22-1215, 22-2206, 22-2209, 22-2718,
6 22-3309, 22-4909A, 22-5119, 23-515, 25-207B, 25-2714, 25-3806,
7 25-3807, 26-1111, 26-1112, 26-2610, 26-2916, 26-31-103, 26-31-315,
8 28-46-106, 28-46-304, 28-46-409, 28-51-104, 30-14-607, 31-874,
9 31-1415, 31-3418, 31-3551, 31-4814, 31-4904, 31-5104, 33-357, 33-510,
10 33-514, 33-515, 33-1211, 33-1273A, 33-2505A, 33-2606, 33-2719, 33-3407
11 AND 33-5204, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AMEND-
12 ING SECTION 33-5204, IDAHO CODE, AS ENACTED BY SECTION 9, CHAPTER 252,
13 LAWS OF 2014, TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTIONS
14 33-5204A, 33-5504A, 34-416, 36-105, 36-402, 36-2114, 37-401, 37-606,
15 37-2743, 38-712, 39-111, 39-270, 39-606, 39-610, 39-1210, 39-1310,
16 39-1393, 39-2812, 39-3556, 39-3913, 39-4411, 39-4412, 39-5211,
17 39-5307, 39-5403, 39-5818, 39-7408B, 39-7908, 39-7914, 39-8206,
18 40-1306C, 40-1309, 40-2004, 41-227, 41-249, 41-296, 41-335, 41-1019,
19 41-1440, 41-2710, 41-3311, 41-4011, 41-4111, 41-5103, 41-5408,
20 41-5817, 42-4010, 44-1606, 47-319, 47-1314, 47-1506, 47-1515, 48-612,
21 48-801, 48-1509, 49-321, 49-1234, 49-1311, 49-1313, 49-1314, 50-2006,
22 54-204, 54-918, 54-934, 54-1210, 54-1406A, 54-1413, 54-1715, 54-1806,
23 54-1806A, 54-1820, 54-1837, 54-2080, 54-2118, 54-2221, 54-2601,
24 54-3204, 54-3404, 54-3913, 54-4603, 56-209j, 56-221, 56-231, 57-133B,
25 57-911, 58-126, 59-1316, 63-602G, 63-3029B, 63-3045B, 63-3077, 65-301,
26 66-348, 67-455A, 67-461, 67-1903, 67-2726, 67-2743E, 67-2915, 67-3008,
27 67-4126, 67-4708, 67-5009, 67-5220, 67-5241, 67-5252, 67-5711C,
28 67-5711D, 67-5725, 67-5768, 67-5781, 67-7410, 67-7421, 67-7436,
29 67-7437, 67-7441, 67-7445, 67-8906, 69-250, 69-515, 72-603, 72-926,
30 72-1007, 72-1342, 72-1372 AND 72-1374, IDAHO CODE, TO PROVIDE CORRECT
31 CODE REFERENCES; AND PROVIDING AN EFFECTIVE DATE.
32

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

34 SECTION 1. That Section 1-2103, Idaho Code, be, and the same is hereby
35 amended to read as follows:

36 1-2103. REMOVAL, DISCIPLINING, OR RETIREMENT OF JUDGES OR JUSTICES --
37 PROCEDURE. A justice of the Supreme Court or judge of any district court, in
38 accordance with the procedure prescribed in this section, may be disciplined
39 or removed for wilful misconduct in office or wilful and persistent failure
40 to perform his duties or habitual intemperance or conduct prejudicial to the
41 administration of justice that brings judicial office into disrepute, or he
42 may be retired for disability seriously interfering with the performance of

1 his duties, which is, or is likely to become of a permanent character. The
2 judicial council may, after such investigation as the council deems neces-
3 sary, order a hearing to be held before it concerning the removal, discipline
4 or retirement of a justice or a judge, or the council may in its discretion
5 request the Supreme Court to appoint three (3) special masters, who shall be
6 justices or judges, to hear and take evidence in any such matters, and to re-
7 port their findings to the council. If, after hearing, or after considering
8 the record and the findings and report of the masters, the council finds good
9 cause therefor, it shall recommend to the Supreme Court the removal, disci-
10 pline or retirement, as the case may be, of the justice or judge.

11 The Supreme Court shall review the record of the proceedings on the law
12 and facts and in its discretion may permit the introduction of additional ev-
13 idence and shall order removal, discipline or retirement, as it finds just
14 and proper, or wholly reject the recommendation. Upon an order for retire-
15 ment, the justice or judge shall thereby be retired with the same rights and
16 privileges as if he retired pursuant to other provisions of law. Upon an or-
17 der for removal, the justice or judge shall thereby be removed from office,
18 and his salary shall cease from the date of such order.

19 All papers filed with and the proceedings before the judicial council or
20 masters appointed by the Supreme Court, pursuant to this section, shall be
21 subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74,
22 Idaho Code, provided, however, that if allegations against a judge are made
23 public by the complainant, judge or third persons, the judicial council may,
24 in its discretion, comment on the existence, nature, and status of any inves-
25 tigation. The filing of papers with and the giving of testimony before the
26 council or the masters shall be privileged; but no other publication of such
27 papers or proceedings shall be privileged in any action for defamation ex-
28 cept that (a) the record filed by the council in the Supreme Court continues
29 privileged and upon such filing loses its confidential character and (b) a
30 writing which was privileged prior to its filing with the council or the mas-
31 ters does not lose such privilege by such filing. The judicial council shall
32 by rule provide for procedures under this section, including the exercise of
33 requisite process and subpoena powers. A justice or judge who is a member
34 of the council or Supreme Court shall not participate in any proceedings in-
35 volving his own removal, discipline or retirement.

36 This section is alternative to, and cumulative with, the removal of
37 justices and judges by impeachment, and the original supervisory control of
38 members of the judicial system by the Supreme Court.

39 SECTION 2. That Section 6-1001, Idaho Code, be, and the same is hereby
40 amended to read as follows:

41 6-1001. HEARING PANEL FOR PRELITIGATION CONSIDERATION OF MEDICAL MAL-
42 PRACTICE CLAIMS -- PROCEDURE. The Idaho state board of medicine, in alleged
43 malpractice cases involving claims for damages against physicians and sur-
44 geons practicing in the state of Idaho or against licensed acute care general
45 hospitals operating in the state of Idaho, is directed to cooperate in pro-
46 viding a hearing panel in the nature of a special civil grand jury and proce-
47 dure for prelitigation consideration of personal injury and wrongful death
48 claims for damages arising out of the provision of or alleged failure to pro-
49 vide hospital or medical care in the state of Idaho, which proceedings shall

1 be informal and nonbinding, but nonetheless compulsory as a condition prece-
2 dent to litigation. Proceedings conducted or maintained under the authority
3 of this act shall at all times be subject to disclosure according to ~~chapter~~
4 ~~3, title 9~~ chapter 1, title 74, Idaho Code. Formal rules of evidence shall
5 not apply and all such proceedings shall be expeditious and informal.

6 SECTION 3. That Section 6-1008, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 6-1008. CONFIDENTIALITY OF PROCEEDINGS. Neither party shall be enti-
9 tled, except upon special order of the panel, to attend and participate in
10 the proceedings which shall be subject to disclosure according to ~~chapter 3,~~
11 ~~title 9~~ chapter 1, title 74, Idaho Code, and closed to public observation at
12 all times, except during the giving of his or her own testimony or presenta-
13 tion of argument of his or her position, whether by counsel or personally;
14 nor shall there be cross-examination, rebuttal or other customary formaliti-
15 ties of civil trials and court proceedings. The panel itself may, however,
16 initiate requests for special or supplemental participation, in particular
17 respects and of some or all parties; and communications between the panel and
18 the parties, excepting only the parties' own testimony on the merits of the
19 dispute, shall be fully disclosed to all other parties.

20 SECTION 4. That Section 6-1010, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 6-1010. FEES FOR PANEL MEMBERS. The Idaho state board of medicine
23 shall provide, by uniform policy of the board, for the payment of fees and
24 expenses of members of panels, such payment to be made from the state board of
25 medicine fund created in section 54-1809, Idaho Code. Panel members shall
26 serve upon the sworn commitment that all related matters shall be subject to
27 disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code,
28 and privileged.

29 SECTION 5. That Section 6-2301, Idaho Code, be, and the same is hereby
30 amended to read as follows:

31 6-2301. PRELITIGATION HEARING PANEL -- LICENSED NURSING FACILI-
32 TIES. In the event of an alleged negligence or wrongful death case involving
33 a claim for damages against a licensed nursing facility operating in the
34 state of Idaho, the Idaho state board of examiners of nursing home adminis-
35 trators is directed to cooperate in providing a prelitigation hearing panel.
36 The panel shall operate in the nature of a special civil grand jury and
37 procedure for prelitigation consideration of personal injury and wrongful
38 death claims for damages arising out of the provision of or alleged failure
39 to provide medical, nursing, or health care services in the state of Idaho.
40 The proceedings shall be informal and nonbinding, but shall be compulsory as
41 a condition precedent to litigation. Proceedings conducted or maintained
42 under the authority of this chapter shall at all times be subject to disclo-
43 sure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. Formal
44 rules of evidence shall not apply and all proceedings shall be expeditious
45 and informal.

1 SECTION 6. That Section 6-2303, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 6-2303. FEES -- CONFIDENTIALITY. The Idaho state board of examiners of
4 nursing home administrators shall provide, by uniform policy of the board,
5 for the payment of fees and expenses of members of panels, such payment to
6 be made from the occupational licenses fund. Panel members shall serve upon
7 the sworn commitment that all related matters shall be subject to disclosure
8 according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, and privi-
9 leged.

10 SECTION 7. That Section 7-1408, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 7-1408. CONFIRMATION OF NONLICENSURE. The petitioner or department
13 shall notify the appropriate licensing authority of the commencement of a
14 judicial or administrative proceeding to suspend a license. Notwithstand-
15 ing any provision of the Idaho public records act, ~~chapter 3, title 9~~ chapter
16 1, title 74, Idaho Code, or other statute or ordinance, the licensing au-
17 thority shall then notify the petitioner or the department if the individual
18 named in the petition is not a licensee.

19 SECTION 8. That Section 7-1416, Idaho Code, be, and the same is hereby
20 amended to read as follows:

21 7-1416. COOPERATION BETWEEN LICENSING AUTHORITIES AND THE DEPARTMENT
22 OF HEALTH AND WELFARE. (1) Notwithstanding any provision of the Idaho public
23 records act, ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, or other
24 statute or ordinance, upon request of the department a licensing authority
25 shall provide the name, address, social security number, license renewal
26 date and other identifying information for licensees. The information shall
27 be provided in a manner agreed to by the licensing authority and the depart-
28 ment.

29 (2) The department may enter into a cooperative agreement with a li-
30 censing authority to administer this chapter in a cost-effective manner.

31 SECTION 9. That Section 9-806, Idaho Code, be, and the same is hereby
32 amended to read as follows:

33 9-806. EXCEPTIONS TO PRIVILEGE. (1) There is no privilege under sec-
34 tion 9-804, Idaho Code, for a mediation communication that is:

35 (a) In an agreement evidenced by a record signed by all parties to the
36 agreement;

37 (b) Available to the public under ~~sections 9-337 through 9-347~~ chapter
38 1, title 74, Idaho Code, or made during a session of a mediation which is
39 open, or is required by law to be open, to the public;

40 (c) A threat or statement of a plan to inflict bodily injury or commit a
41 crime of violence;

42 (d) Intentionally used to plan a crime, attempt to commit or commit a
43 crime or to conceal an ongoing crime or ongoing criminal activity;

1 (e) Sought or offered to prove or disprove a claim or complaint of pro-
 2 fessional misconduct or malpractice filed against a mediator;

3 (f) Except as otherwise provided in subsection (3) of this section,
 4 sought or offered to prove or disprove a claim or complaint of pro-
 5 fessional misconduct or malpractice filed against a mediation party,
 6 nonparty participant or representative of a party based on conduct oc-
 7 ccurring during a mediation; or

8 (g) Sought or offered to prove or disprove abuse, neglect, abandonment
 9 or exploitation in a proceeding in which a child or adult protective
 10 services agency is a party, unless the public agency participates in the
 11 mediation.

12 (2) There is no privilege under section 9-804, Idaho Code, if a court,
 13 administrative agency or arbitrator finds, after a hearing in camera, that
 14 the party seeking discovery or the proponent of the evidence has shown that
 15 the evidence is not otherwise available, that there is a need for the evi-
 16 dence that substantially outweighs the interest in protecting confidential-
 17 ity, and that the mediation communication is sought or offered in:

18 (a) A court proceeding involving a felony or misdemeanor; or

19 (b) Except as otherwise provided in subsection (3) of this section, a
 20 proceeding to prove a claim to rescind or reform or a defense to avoid
 21 liability on a contract arising out of the mediation.

22 (3) A mediator may not be compelled to provide evidence of a mediation
 23 communication referred to in subsection (1) (f) or (2) (b) of this section.

24 (4) If a mediation communication is not privileged under subsection (1)
 25 or (2) of this section, only the portion of the communication necessary for
 26 the application of the exception from nondisclosure may be admitted. Admis-
 27 sion of evidence under subsection (1) or (2) of this section does not render
 28 the evidence, or any other mediation communication, discoverable or admis-
 29 sible for any other purpose.

30 SECTION 10. That Section 9-808, Idaho Code, be, and the same is hereby
 31 amended to read as follows:

32 9-808. CONFIDENTIALITY. Unless subject to ~~sections 9-337 through~~
 33 ~~9-347 chapter 1 or 67-2340 through 67-2347 2,~~ title 74, Idaho Code, mediation
 34 communications are confidential to the extent agreed by the parties or pro-
 35 vided by other law or rule of this state.

36 SECTION 11. That Section 15-5-602, Idaho Code, be, and the same is
 37 hereby amended to read as follows:

38 15-5-602. BOARD STRUCTURE -- POWERS AND DUTIES. (a) Any board of com-
 39 munity guardian which is created within a county or counties in a judicial
 40 district shall operate under the laws of the state of Idaho, including the
 41 Idaho guardianship, conservatorship and trust laws.

42 (b) A board of community guardian shall consist of not fewer than seven
 43 (7) or more than eleven (11) members who are representatives of community in-
 44 terests involving persons needing guardians or conservators as defined by
 45 chapter 5, title 15, Idaho Code. Members shall be appointed by the board of
 46 county commissioners that created the board of community guardian under sec-
 47 tion 15-5-601, Idaho Code.

1 (1) The terms of the members of the board shall be for four (4) years
2 and shall be staggered. A number of members equaling or most closely
3 exceeding one-half (1/2) shall initially be appointed for three (3)
4 years. Any vacancy created by resignation or expiration of term shall
5 be filled in the same manner as the original appointment;

6 (2) A member will continue to serve on the board until that person's
7 successor is appointed;

8 (3) The board shall meet not less than once each quarter;

9 (4) No person shall be a member of a board who is also an employee of the
10 district court or the clerk of the district court;

11 (5) A board member having previously provided or currently providing
12 services to a ward shall disclose such to the board and abstain from any
13 decision or action taken concerning that particular ward;

14 (6) Board members and officers shall serve without pay;

15 (7) Each board shall elect its own chairman and other officers.

16 (c) A board, in those instances when a guardian and/or conservator is
17 required and no qualified family member or other qualified person has volun-
18 teered to serve, may:

19 (1) Locate a qualified person to serve as guardian and/or conservator;
20 or

21 (2) Petition the court to be appointed guardian and/or conservator.

22 (d) The board shall have all the powers and duties where applicable by
23 court order, as provided under section 15-5-312, Idaho Code, and/or sections
24 15-5-408 and 15-5-424, Idaho Code, and in addition thereto shall:

25 (1) Locate and recommend to the court, where necessary, that a visitor
26 be appointed as provided in section 15-5-503, Idaho Code;

27 (2) Have access to all confidential records, including abuse reg-
28 istry reports that may be maintained by state or private agencies or
29 institutions, which records concern a person for whom the board acts as
30 guardian and/or conservator. The name of the person reporting the al-
31 leged abuse shall be subject to disclosure according to ~~chapter 3, title~~
32 9 chapter 1, title 74, Idaho Code;

33 (3) Review and monitor the services provided by public and private
34 agencies to any incapacitated person for whom the board acts as guardian
35 and/or conservator and determine the continued need for those services;

36 (4) Assess a fee for services developed pursuant to this part;

37 (5) Have the power, subject to the approval of the board of county com-
38 missioners, to adopt such rules as are necessary to carry out the duties
39 and responsibilities of the board.

40 (e) When a board serves as guardian or conservator, it shall be compen-
41 sated as other guardians or conservators pursuant to Idaho law. If, at the
42 time the board is appointed as guardian and/or conservator, the incapaci-
43 tated person for whom the board is to act has no funds, the court may waive the
44 payment of fees.

45 (f) When a board serves as guardian and/or conservator there is cre-
46 ated, at the time of filing of the order of appointment, a lien in favor of
47 the board against any real property owned by the ward or protected person,
48 enforceable only upon the termination of the guardianship and/or conser-
49 vatorship, for all fees which were incurred throughout the duration of the
50 services and which were not paid prior to termination. All fees incurred

1 throughout the duration of the services and which were not paid prior to the
2 termination of services shall relate back to the effective date of the lien.
3 The board must record a notice of said lien within thirty (30) days of filing
4 of the order of appointment. Such liens shall be recorded in every county
5 where property subject to the lien is located. The notice shall contain at
6 least the following information: full court heading of the action in which
7 the appointment was made; the effective date of the lien; the name and ad-
8 dress of the board; and any limitations or terms regarding the fees covered
9 by the lien contained in the order of appointment. The court may postpone or
10 arrange for gradual repayment of the fees if the court finds that the immedi-
11 ate repayment would create a hardship on the person.

12 (g) No member of a board of community guardian, any employees, or any
13 visitor appointed at the request of such board pursuant to section 15-5-303,
14 Idaho Code, shall be liable for civil damages by reason of authorizing med-
15 ical treatment or surgery for the person for whom the board is appointed, if
16 the board member, employee or visitor, after medical consultation with the
17 person's physician, acts in good faith, is not negligent, and acts within the
18 limits established for the guardian and/or conservator by the court. No such
19 person shall be liable, by reason of his authorization, for injury to the
20 person for whom the guardian and/or conservator has been appointed which in-
21 jury results from the negligence or other acts of a third person, if the court
22 has authorized the giving of medical consent by the board or the individual
23 members of the board. No such person shall be liable in the performance of
24 acts done in good faith within the scope of his authority as long as the act is
25 not of a wanton or grossly negligent nature. The board of community guardian
26 shall be deemed to be a governmental entity for the purposes of application
27 of the Idaho tort claims act.

28 SECTION 12. That Section 16-1513, Idaho Code, be, and the same is hereby
29 amended to read as follows:

30 16-1513. REGISTRATION OF NOTICE AND FILING OF PATERNITY PROCEED-
31 INGS. (1) A person who is the father or claims to be the father of a child
32 born out of wedlock may claim rights pertaining to his paternity of the child
33 by commencing proceedings to establish paternity under section 7-1111,
34 Idaho Code, and by filing with the vital statistics unit of the department
35 of health and welfare notice of his filing of proceedings to establish his
36 paternity of the child born out of wedlock. The vital statistics unit of
37 the department of health and welfare shall provide forms for the purpose of
38 filing the notice of filing of paternity proceedings, and the forms shall
39 be made available through the vital statistics unit of the Idaho department
40 of health and welfare and in the office of the county clerk in every county
41 of this state. The forms shall include a written notification that filing
42 pursuant to this section shall not satisfy the requirements of chapter 82,
43 title 39, Idaho Code, and the notification shall also include the following
44 statements:

45 (a) A parent may make a claim of parental rights of an abandoned child,
46 abandoned pursuant to the provisions of chapter 82, title 39, Idaho
47 Code, as provided by section 39-8206, Idaho Code, by filing a notice of
48 claim of parental rights with the vital statistics unit of the depart-

1 ment of health and welfare on a form as prescribed and provided by the
2 vital statistics unit of the department of health and welfare;

3 (b) The vital statistics unit of the department of health and welfare
4 shall maintain a separate registry for claims to abandoned children,
5 abandoned pursuant to the provisions of chapter 82, title 39, Idaho
6 Code;

7 (c) The department shall provide forms for the purpose of filing a claim
8 of parental rights of an abandoned child, abandoned pursuant to the pro-
9 visions of chapter 82, title 39, Idaho Code, and the forms shall be made
10 available through the vital statistics unit of the Idaho department of
11 health and welfare and in the office of the county clerk in every county
12 of this state;

13 (d) To be valid, a claim of parental rights of an abandoned child, aban-
14 doned pursuant to the provisions of chapter 82, title 39, Idaho Code,
15 must be filed before an order terminating parental rights is entered by
16 the court. A parent that fails to file a claim of parental rights prior
17 to entry of an order terminating their parental rights is deemed to have
18 abandoned the child and waived and surrendered any right in relation to
19 the child, including the right to notice of any judicial proceeding in
20 connection with the termination of parental rights or adoption of the
21 child;

22 (e) Registration of notice of filing of paternity proceedings pursuant
23 to chapter 15, title 16, Idaho Code, shall not satisfy the requirements
24 of chapter 82, title 39, Idaho Code. To register a parental claim to
25 an abandoned child, abandoned pursuant to the provisions of chapter 82,
26 title 39, Idaho Code, an individual must file an abandoned child reg-
27 istry claim with the vital statistics unit of the department of health
28 and welfare and comply with all other provisions of chapter 82, title
29 39, Idaho Code, in the time and manner prescribed, in order to preserve
30 parental rights to the child.

31 When filing a notice of the filing of paternity proceedings, a person
32 who claims to be the father of a child born out of wedlock shall file with the
33 vital statistics unit of the department of health and welfare the completed
34 form prescribed by the vital statistics unit of the department of health
35 and welfare. Said form will be filled out completely, signed by the person
36 claiming paternity, and witnessed before a notary public.

37 (2) The notice of the filing of paternity proceedings may be filed prior
38 to the birth of the child, but must be filed prior to the date of the filing
39 of any proceeding to terminate the parental rights of the birth mother. The
40 notice of the filing of paternity proceedings shall be signed by the person
41 filing the notice and shall include his name and address, the name and last
42 address of the mother, and either the birth date of the child or the probable
43 month and year of the expected birth of the child. The vital statistics unit
44 of the department of health and welfare shall maintain a central registry for
45 this purpose that shall be subject to disclosure according to ~~chapter 3, ti-~~
46 ~~tle 9~~ chapter 1, title 74, Idaho Code. The department shall record the date
47 and time the notice of the filing of proceedings is filed with the depart-
48 ment. The notice shall be deemed to be duly filed with the department as of
49 the date and time recorded on the notice by the department.

1 (3) If the unmarried biological father does not know the county in which
2 the birth mother resides, he may initiate his action in any county, subject
3 to a change in venue.

4 (4) Except as provided in section 16-1504(5), Idaho Code, any father
5 of a child born out of wedlock who fails to file and register his notice of
6 the commencement of paternity proceedings pursuant to section 7-1111, Idaho
7 Code, prior to the date of the filing of any proceeding to terminate the
8 parental rights of the birth mother; the filing of any proceeding to adopt
9 the child; or the execution of a consent to terminate the birth mother's
10 parental rights under the provisions of section 16-2005(4), Idaho Code,
11 whichever occurs first, is deemed to have waived and surrendered any right
12 in relation to the child and of any notice to proceedings for adoption of the
13 child or for termination of parental rights of the birth mother. His consent
14 to the adoption of the child shall not be required and he shall be barred from
15 thereafter bringing or maintaining any action to establish his paternity of
16 the child. Failure of such filing or registration shall constitute an aban-
17 donment of said child and shall constitute an irrevocable implied consent in
18 any adoption or termination proceeding.

19 (5) The filing and registration of an unrevoked notice of the commence-
20 ment of paternity proceedings by a putative father shall constitute prima
21 facie evidence of the fact of his paternity in any contested proceeding under
22 chapter 11, title 7, Idaho Code. The filing of a notice of the commencement
23 of paternity proceedings shall not be a bar to an action for termination of
24 his parental rights under chapter 20, title 16, Idaho Code.

25 (6) An unmarried biological father of a child born out of wedlock who
26 has filed and registered a notice of the filing of paternity proceedings may
27 at any time revoke notice of intent to claim paternity previously filed.
28 Upon receipt of written revocation, the effect shall be as if no notice of the
29 filing of paternity proceedings had been filed or registered.

30 (7) In any adoption proceeding pertaining to a child born out of wed-
31 lock, if there is no showing that the putative father has consented to the
32 adoption, a certificate shall be obtained from the vital statistics unit of
33 the department of health and welfare, signed by the state registrar of vital
34 statistics, which certificate shall state that a diligent search has been
35 made of the registry of notices from putative fathers, and that no filing has
36 been found pertaining to the father of the child in question, or if a fil-
37 ing is found, stating the name of the putative father and the time and date
38 of filing. That certificate shall be filed with the court prior to entry of a
39 final decree of adoption.

40 (8) Identities of putative fathers can only be released pursuant to
41 procedures contained in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

42 (9) To cover the cost of implementing and maintaining said central reg-
43 istry, the vital statistics unit of the department of health and welfare
44 shall charge a filing fee of ten dollars (\$10.00) at the time the putative
45 father files his notice of his commencement of proceedings. The department
46 shall also charge a reasonable fee to cover all costs incurred in a search
47 of the Idaho putative father registry and for furnishing a certificate in
48 accordance with the provisions of this section and section 16-1504, Idaho
49 Code. It is the intent of the legislature that the fee shall cover all direct
50 and indirect costs incurred pursuant to this section and section 16-1504,

1 Idaho Code. The department shall annually review the fees and expenses in-
2 curred pursuant to administering the provisions of this section and section
3 16-1504, Idaho Code.

4 (10) Consistent with its authority denoted in the vital statistics act,
5 section 39-242(c), Idaho Code, the board of health and welfare shall adopt,
6 amend and repeal rules for the purpose of carrying out the provisions of this
7 section.

8 (11) The department shall produce and distribute, within the limits
9 of continuing annual appropriations duly made available to the department
10 by the legislature for such purposes, a pamphlet or publication informing
11 the public about the Idaho putative father registry, printed in English and
12 Spanish. The pamphlet shall indicate the procedures to be followed in order
13 to receive notice of any proceeding for adoption of a child an unmarried
14 biological father claims to have fathered and of any proceeding for termi-
15 nation of his parental rights, voluntary acknowledgment of paternity, the
16 consequences of acknowledgment of paternity, the consequences of failure to
17 acknowledge paternity and the address of the Idaho putative father registry.
18 Within the limits of continuing annual appropriations duly made available
19 to the department by the legislature for such purposes, such pamphlets or
20 publications shall be made available for distribution to the public at all
21 offices of the department of health and welfare. Upon request the department
22 shall also provide such pamphlets or publications to hospitals, libraries,
23 medical clinics, schools, colleges, universities, providers of child-re-
24 lated services and children's agencies licensed in the state of Idaho or
25 advertising services in the state of Idaho.

26 (12) Within the limits of continuing annual appropriations duly made
27 available to the department by the legislature for such purposes, each
28 county clerk, branch office of the department of motor vehicles, all of-
29 fices of the department of health and welfare, hospitals and local health
30 districts shall post in a conspicuous place a notice that informs the public
31 about the purpose and operation of the Idaho putative father registry. The
32 notice must include information regarding the following:

33 (a) Where to obtain a registration form;

34 (b) Where to register;

35 (c) The procedures to follow in order to file proceedings to establish
36 paternity of a child born out of wedlock;

37 (d) The consequences of a voluntary acknowledgment of paternity; and

38 (e) The consequences of failure to acknowledge paternity.

39 (13) The department shall host on the department's web page a public
40 service announcement (PSA) informing the public about the Idaho putative
41 father registry, printed in English and Spanish. The PSA shall indicate the
42 procedures to be followed in order to receive notice of any proceeding for
43 adoption of a child an unmarried biological father claims to have fathered
44 and of any proceeding for termination of his parental rights, voluntary ac-
45 knowledgment of paternity, the consequences of acknowledgment of paternity,
46 the consequences of failure to acknowledge paternity and the address of the
47 Idaho putative father registry.

48 (14) Failure to post a proper notice under the provisions of this sec-
49 tion does not relieve a putative father of the obligation to file notice
50 of the filing of proceedings to establish his paternity pursuant to this

1 section or to commence proceedings to establish paternity pursuant to sec-
2 tion 7-1111, Idaho Code, prior to the filing of any proceeding to terminate
3 parental rights of the birth mother.

4 (15) A person who knowingly or intentionally falsely files or registers
5 as a putative father is guilty of a misdemeanor.

6 SECTION 13. That Section 16-1629, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 16-1629. POWERS AND DUTIES OF THE DEPARTMENT. The department, working
9 in conjunction with the court and other public and private agencies and per-
10 sons, shall have the primary responsibility to implement the purpose of this
11 chapter. To this end, the department is empowered and shall have the duty to
12 do all things reasonably necessary to carry out the purpose of this chapter,
13 including, but not limited to, the following:

14 (1) The department shall administer treatment programs for the protec-
15 tion and care of neglected, abused and abandoned children, and in so doing
16 may place in foster care, shelter care, or other diagnostic, treatment, or
17 care centers or facilities, children of whom it has been given custody. The
18 department is to be governed by the standards found in chapter 12, title 39,
19 Idaho Code.

20 (2) On December 1, the department shall make an annual statistical
21 report to the governor covering the preceding fiscal year showing the num-
22 ber and status of persons in its custody and including such other data as
23 will provide sufficient facts for sound planning in the conservation of
24 children and youth. All officials and employees of the state and of every
25 county and city shall furnish the department, upon request, such information
26 within their knowledge and control as the department deems necessary. Lo-
27 cal agencies shall report in such uniform format as may be required by the
28 department.

29 (3) The department shall be required to maintain a central registry for
30 the reporting of child neglect, abuse and abandonment information. Provided
31 however, that the department shall not retain any information for this pur-
32 pose relating to a child, or parent of a child, abandoned pursuant to chapter
33 82, title 39, Idaho Code.

34 (4) The department shall make periodic evaluation of all persons in its
35 custody or under its protective supervision for the purpose of determining
36 whether existing orders and dispositions in individual cases shall be modi-
37 fied or continued in force. Evaluations may be made as frequently as the de-
38 partment considers desirable and shall be made with respect to every person
39 at intervals not exceeding six (6) months. Reports of evaluation made pur-
40 suant to this section shall be filed with the court that has jurisdiction.
41 Reports of evaluation shall be provided to persons having full or partial le-
42 gal or physical custody of a child. Failure of the department to evaluate a
43 person or to reevaluate him within six (6) months of a previous examination
44 shall not of itself entitle the person to a change in disposition but shall
45 entitle him, his parent, guardian or custodian or his counsel to petition the
46 court pursuant to section 16-1622, Idaho Code.

47 (5) In a consultive capacity, the department shall assist communities
48 in the development of constructive programs for the protection, prevention
49 and care of children and youth.

1 (6) The department shall keep written records of investigations, eval-
2 uations, prognoses and all orders concerning disposition or treatment of
3 every person over whom it has legal custody or under its protective super-
4 vision. Department records shall be subject to disclosure according to
5 ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, unless otherwise or-
6 dered by the court, the person consents to the disclosure, or disclosure
7 is necessary for the delivery of services to the person. Notwithstanding
8 the provisions restricting disclosure or the exemptions from disclosure
9 provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, all records
10 pertaining to investigations, the rehabilitation of youth, the protection
11 of children, evaluation, treatment and/or disposition records pertaining to
12 the statutory responsibilities of the department shall be disclosed to any
13 duly elected state official carrying out his official functions.

14 (7) The department shall establish appropriate administrative proce-
15 dures for the processing of complaints of child neglect, abuse and abandon-
16 ment received and for the implementation of the protection, treatment and
17 care of children formally or informally placed in the custody of the depart-
18 ment or under its protective supervision under this chapter including, but
19 not limited to:

20 (a) Department employees whose job duties are related to the child pro-
21 tective services system under this chapter shall first be trained as to
22 their obligations under this chapter regarding the protection of chil-
23 dren whose health and safety may be endangered. The curriculum shall
24 include information regarding their legal duties, how to conduct their
25 work in conformity with the requirements of this chapter, information
26 regarding applicable federal and state laws with regard to the rights
27 of the child, parent and others who may be under investigation under the
28 child protective services system, and the applicable legal and consti-
29 tutional parameters within which they are to conduct their work.

30 (b) Department employees whose job duties are related to the child pro-
31 tective services system shall advise the individual of the complaints
32 or allegations made against the individual at the time of the initial
33 contact, consistent with protecting the identity of the referent.

34 (8) The department having been granted legal custody of a child, sub-
35 ject to the judicial review provisions of this subsection, shall have the
36 right to determine where and with whom the child shall live, provided that
37 the child shall not be placed outside the state without the court's consent.
38 Provided however, that the court shall retain jurisdiction over the child,
39 which jurisdiction shall be entered on any order or petition granting legal
40 custody to the department, and the court shall have jurisdiction over all
41 matters relating to the child. The department shall not place the child in
42 the home from which the court ordered the child removed without first obtain-
43 ing the approval of the court.

44 (9) The department shall give to the court any information concerning
45 the child that the court may at any time require, but in any event shall re-
46 port the progress of the child under its custody or under its protective su-
47 pervision at intervals of not to exceed six (6) months. The department shall
48 file with the court at least five (5) days prior to the permanency hearing ei-
49 ther under section 16-1622, Idaho Code, or, in the case of a finding of aggra-

1 vated circumstances, section 16-1620, Idaho Code, the permanency plan and
2 recommendations of the department.

3 (10) The department shall establish appropriate administrative proce-
4 dures for the conduct of administrative reviews and hearings as required by
5 federal statute for all children committed to the department and placed in
6 out of the home care.

7 (11) At any time the department is considering a placement pursuant to
8 this chapter, the department shall make a reasonable effort to place the
9 child in the least restrictive environment to the child and in so doing shall
10 consider, consistent with the best interest and special needs of the child,
11 placement priority of the child in the following order:

12 (a) A fit and willing relative.

13 (b) A fit and willing nonrelative with a significant relationship with
14 the child.

15 (c) Foster parents and other persons licensed in accordance with chap-
16 ter 12, title 39, Idaho Code.

17 SECTION 14. That Section 18-609A, Idaho Code, be, and the same is hereby
18 amended to read as follows:

19 18-609A. CONSENT REQUIRED FOR ABORTIONS FOR MINORS. (1) Except as
20 otherwise provided in this section, a person shall not knowingly perform an
21 abortion on a pregnant unemancipated minor unless the attending physician
22 has secured the written consent from one (1) of the minor's parents or the
23 minor's guardian or conservator.

24 (2) A judge of the district court shall, on petition or motion, and af-
25 ter an appropriate hearing, authorize a physician to perform the abortion if
26 the judge determines, by clear and convincing evidence, that:

27 (a) The pregnant minor is mature and capable of giving informed consent
28 to the proposed abortion; or

29 (b) The performance of an abortion would be in her best interests.

30 (3) The pregnant minor may participate in the court proceedings on her
31 own behalf. The court may appoint a guardian ad litem for her. The court
32 shall provide her with counsel unless she appears through private counsel.

33 (4) Proceedings in the court under this section shall be closed and have
34 precedence over other pending matters. A judge who conducts proceedings un-
35 der this section shall make in writing specific factual findings and legal
36 conclusions supporting the decision and shall order a confidential record of
37 the evidence to be maintained including the judge's own findings and conclu-
38 sions. The minor may file the petition using a fictitious name. All records
39 contained in court files of judicial proceedings arising under the provi-
40 sions of this section shall be confidential and exempt from disclosure pur-
41 suant to section ~~9-3406~~ 74-110, Idaho Code. Dockets and other court records
42 shall be maintained and court proceedings undertaken so that the names and
43 identities of the parties to actions brought pursuant to this section will
44 not be disclosed to the public.

45 (5) The court shall hold the hearing within forty-eight (48) hours, ex-
46 cluding weekends and holidays, after the petition is filed, and shall issue
47 its ruling at the conclusion of the hearing. If the court fails to issue its
48 ruling at the conclusion of the hearing, the petition is deemed to have been
49 granted and the consent requirement is waived.

1 (6) An expedited confidential appeal is available to a pregnant minor
2 for whom the court denies an order authorizing an abortion without parental
3 consent. A minor shall file her notice of appeal within five (5) days, ex-
4 cluding weekends and holidays, after her petition was denied by the district
5 court. The appellate court shall hold the hearing within forty-eight (48)
6 hours, excluding weekends and holidays, after the notice of appeal is filed
7 and shall issue its ruling at the conclusion of the hearing. If the appellate
8 court fails to issue its ruling at the conclusion of the hearing, the peti-
9 tion is deemed to have been granted and the consent requirement is waived.
10 Filing fees are not required of the pregnant minor at either the district
11 court or the appellate level.

12 (7) Parental consent or judicial authorization is not required under
13 this section if either:

14 (a) The pregnant minor certifies to the attending physician that the
15 pregnancy resulted from rape as defined in section 18-6101, Idaho Code,
16 excepting subsections (1) and (2) thereof, or sexual conduct with the
17 minor by the minor's parent, stepparent, uncle, grandparent, sibling,
18 adoptive parent, legal guardian or foster parent.

19 (b) A medical emergency exists for the minor and the attending physi-
20 cian records the symptoms and diagnosis upon which such judgment was
21 made in the minor's medical record.

22 SECTION 15. That Section 18-1359, Idaho Code, be, and the same is hereby
23 amended to read as follows:

24 18-1359. USING PUBLIC POSITION FOR PERSONAL GAIN. (1) No public ser-
25 vant shall:

26 (a) Without the specific authorization of the governmental entity for
27 which he serves, use public funds or property to obtain a pecuniary ben-
28 efit for himself.

29 (b) Solicit, accept or receive a pecuniary benefit as payment for
30 services, advice, assistance or conduct customarily exercised in the
31 course of his official duties. This prohibition shall not include triv-
32 ial benefits not to exceed a value of fifty dollars (\$50.00) incidental
33 to personal, professional or business contacts and involving no sub-
34 stantial risk of undermining official impartiality.

35 (c) Use or disclose confidential information gained in the course of or
36 by reason of his official position or activities in any manner with the
37 intent to obtain a pecuniary benefit for himself or any other person or
38 entity in whose welfare he is interested or with the intent to harm the
39 governmental entity for which he serves.

40 (d) Be interested in any contract made by him in his official capacity,
41 or by any body or board of which he is a member, except as provided in
42 section 18-1361, Idaho Code.

43 (e) Appoint or vote for the appointment of any person related to him by
44 blood or marriage within the second degree, to any clerkship, office,
45 position, employment or duty, when the salary, wages, pay or compen-
46 sation of such appointee is to be paid out of public funds or fees of
47 office, or appoint or furnish employment to any person whose salary,
48 wages, pay or compensation is to be paid out of public funds or fees of
49 office, and who is related by either blood or marriage within the second

1 degree to any other public servant when such appointment is made on the
2 agreement or promise of such other public servant or any other public
3 servant to appoint or furnish employment to anyone so related to the
4 public servant making or voting for such appointment. Any public ser-
5 vant who pays out of any public funds under his control or who draws or
6 authorizes the drawing of any warrant or authority for the payment out
7 of any public fund of the salary, wages, pay, or compensation of any such
8 ineligible person, knowing him to be ineligible, is guilty of a misde-
9 meanor and shall be punished as provided in this chapter.

10 (f) Unless specifically authorized by another provision of law, com-
11 mit any act prohibited of members of the legislature or any officer
12 or employee of any branch of the state government by section 67-5726,
13 Idaho Code, violations of which are subject to penalties as provided in
14 section 67-5734, Idaho Code, which prohibition and penalties shall be
15 deemed to extend to all public servants pursuant to the provisions of
16 this section.

17 (2) No person related to any member of the legislature by blood or mar-
18 riage within the second degree shall be appointed to any clerkship, office,
19 position, employment or duty within the legislative branch of government
20 or otherwise be employed by the legislative branch of government when the
21 salary, wages, pay or compensation of such appointee or employee is to be
22 paid out of public funds.

23 (3) No person related to a mayor or member of a city council by blood or
24 marriage within the second degree shall be appointed to any clerkship, of-
25 fice, position, employment or duty with the mayor's or city council's city
26 when the salary, wages, pay or compensation of such appointee or employee is
27 to be paid out of public funds.

28 (4) No person related to a county commissioner by blood or marriage
29 within the second degree shall be appointed to any clerkship, office, po-
30 sition, employment or duty with the commissioner's county when the salary,
31 wages, pay or compensation of such appointee or employee is to be paid out of
32 public funds.

33 (5) (a) An employee of a governmental entity holding a position prior to
34 the election of a local government official, who is related within the
35 second degree, shall be entitled to retain his or her position and re-
36 ceive general pay increases, step increases, cost of living increases,
37 and/or other across the board increases in salary or merit increases,
38 benefits and bonuses or promotions.

39 (b) Nothing in this section shall be construed as creating any property
40 rights in the position held by an employee subject to this section, and
41 all authority in regard to disciplinary action, transfer, dismissal,
42 demotion or termination shall continue to apply to the employee.

43 (6) The prohibitions contained within this section shall not include
44 conduct defined by the provisions of section ~~59-703~~ 74-403(4), Idaho Code.

45 (7) The prohibitions within this section and section 18-1356, Idaho
46 Code, as it applies to part-time public servants, do not include those ac-
47 tions or conduct involving the public servant's business, profession or
48 occupation and unrelated to the public servant's official conduct, and do
49 not apply to a pecuniary benefit received in the normal course of a leg-

1 islator's business, profession or occupation and unrelated to any bill,
2 legislation, proceeding or official transaction.

3 SECTION 16. That Section 18-3302, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 18-3302. ISSUANCE OF LICENSES TO CARRY CONCEALED WEAPONS. (1) The
6 sheriff of a county, on behalf of the state of Idaho, shall, within ninety
7 (90) days after the filing of an application by any person who is not dis-
8 qualified from possessing or receiving a firearm under state or federal law,
9 issue a license to the person to carry a weapon concealed on his person within
10 this state. For licenses issued before July 1, 2006, a license shall be valid
11 for four (4) years from the date of issue. For licenses issued on or after
12 July 1, 2006, a license shall be valid for five (5) years from the date of
13 issue. The citizen's constitutional right to bear arms shall not be denied
14 to him, unless one (1) of the following applies. He:

15 (a) Is ineligible to own, possess or receive a firearm under the provi-
16 sions of state or federal law;

17 (b) Is formally charged with a crime punishable by imprisonment for a
18 term exceeding one (1) year;

19 (c) Has been adjudicated guilty in any court of a crime punishable by
20 imprisonment for a term exceeding one (1) year;

21 (d) Is a fugitive from justice;

22 (e) Is an unlawful user of, or addicted to, marijuana or any depres-
23 sant, stimulant or narcotic drug, or any other controlled substance as
24 defined in 21 U.S.C. 802;

25 (f) Is currently suffering or has been adjudicated as follows, based on
26 substantial evidence:

27 (i) Lacking mental capacity as defined in section 18-210, Idaho
28 Code;

29 (ii) Mentally ill as defined in section 66-317, Idaho Code;

30 (iii) Gravely disabled as defined in section 66-317, Idaho Code;
31 or

32 (iv) An incapacitated person as defined in section 15-5-101(a),
33 Idaho Code.

34 (g) Is or has been discharged from the armed forces under dishonorable
35 conditions;

36 (h) Is or has been adjudicated guilty of or received a withheld judgment
37 or suspended sentence for one (1) or more crimes of violence constitut-
38 ing a misdemeanor, unless three (3) years have elapsed since disposi-
39 tion or pardon has occurred prior to the date on which the application is
40 submitted;

41 (i) Has had entry of a withheld judgment for a criminal offense which
42 would disqualify him from obtaining a concealed weapon license;

43 (j) Is an alien illegally in the United States;

44 (k) Is a person who having been a citizen of the United States has re-
45 nounced his or her citizenship;

46 (l) Is under twenty-one (21) years of age;

47 (m) Is free on bond or personal recognizance pending trial, appeal or
48 sentencing for a crime which would disqualify him from obtaining a con-
49 cealed weapon license; or

1 (n) Is subject to a protection order issued under chapter 63, title
2 39, Idaho Code, that restrains the person from harassing, stalking or
3 threatening an intimate partner of the person or child of the intimate
4 partner or person, or engaging in other conduct that would place an
5 intimate partner in reasonable fear of bodily injury to the partner or
6 child.

7 The license application shall be in a form to be prescribed by the
8 director of the Idaho state police, and shall ask the name, address, de-
9 scription and signature of the licensee, date of birth, place of birth,
10 social security number, military status, citizenship and the driver's
11 license number or state identification card number of the licensee if
12 used for identification in applying for the license. The application
13 shall indicate that provision of the social security number is op-
14 tional. The license application shall contain a warning substantially
15 as follows:

16 CAUTION: Federal law and state law on the possession of weapons and
17 firearms differ. If you are prohibited by federal law from possessing
18 a weapon or a firearm, you may be prosecuted in federal court. A state
19 permit is not a defense to a federal prosecution.

20 The sheriff shall require any person who is applying for original is-
21 suance of a license to submit his fingerprints in addition to the other
22 information required in this subsection. Within five (5) days after the
23 filing of an application, the sheriff shall forward the application and
24 fingerprints to the Idaho state police for a records check of state and
25 national files. The Idaho state police shall conduct a national finger-
26 print-based records check and return the results to the sheriff within
27 seventy-five (75) days. The sheriff shall not issue a license before
28 receiving the results of the records check and must deny a license if
29 the applicant is disqualified under any of the criteria listed in para-
30 graphs (a) through (n) of this subsection. In the event the sheriff has
31 collected a fee to cover the cost of processing fingerprints for the
32 records check, the sheriff shall provide the applicant with a copy of
33 the results of the records check upon request of the applicant.

34 The license will be in a form substantially similar to that of the
35 Idaho driver's license. It will bear the signature, name, address, date
36 of birth, picture of the licensee, expiration date and the driver's li-
37 cense number or state identification card number of the licensee if used
38 for identification in applying for the license. Upon issuing a license
39 under the provisions of this section, the sheriff will notify the Idaho
40 state police on a form or in a manner prescribed by the state police. In-
41 formation relating to an applicant or licensee received or maintained
42 pursuant to this section by the sheriff or Idaho state police is con-
43 fidential and exempt from disclosure under section ~~9-338~~ 74-102, Idaho
44 Code.

45 (2) The fee for original issuance of a license shall be twenty dollars
46 (\$20.00) paid to the sheriff for the purpose of enforcing the provisions of
47 this chapter. The sheriff may collect any additional fees necessary to cover
48 the cost of processing fingerprints lawfully required by any state or fed-

1 eral agency or department, and the cost of materials for the license lawfully
2 required by any state agency or department, which costs shall be paid to the
3 state.

4 (3) The fee for renewal of the license shall be fifteen dollars
5 (\$15.00). The sheriff may collect any additional fees necessary to cover
6 the processing costs lawfully required by any state or federal agency or
7 department, and the cost of materials for the license lawfully required by
8 any state agency or department, which costs shall be paid to the state. If
9 a licensee applying for renewal has not previously been required to submit
10 fingerprints, the sheriff shall require the licensee to do so and may collect
11 any additional fees necessary to cover the cost of processing fingerprints
12 lawfully required by any state or federal agency or department.

13 (4) Every license that is not, as provided by law, suspended, revoked or
14 disqualified in this state shall be renewable at any time during the ninety
15 (90) day period before its expiration or within ninety (90) days after the
16 expiration date. Renewal notices shall be mailed out ninety (90) days prior
17 to the expiration date of the license. The sheriff shall require the li-
18 censee applying for renewal to complete an application. The sheriff shall
19 submit the application to the Idaho state police for a records check of state
20 and national databases. The Idaho state police shall conduct the records
21 check and return the results to the sheriff within thirty (30) days. The
22 sheriff shall not issue a renewal before receiving the results of the records
23 check and must deny a license if the applicant is disqualified under any of
24 the criteria listed in subsection (1), paragraphs (a) through (n) of this
25 section. A renewal license shall be valid for a period of five (5) years.
26 A license so renewed shall take effect on the expiration date of the prior
27 license. A licensee renewing ninety-one (91) days to one hundred eighty
28 (180) days after the expiration date of the license shall pay a late renewal
29 penalty of ten dollars (\$10.00) in addition to the renewal fee, except that
30 any licensee serving on active duty in the armed forces of the United States
31 during the renewal period shall not be required to pay a late renewal penalty
32 upon renewing ninety-one (91) days to one hundred eighty (180) days after the
33 expiration date of the license. After one hundred eighty-one (181) days, the
34 licensee shall be required to submit an initial application for a license and
35 to pay the fees prescribed in subsection (2) of this section. The renewal fee
36 and any penalty shall be paid to the sheriff for the purpose of enforcing the
37 provisions of this chapter. Upon renewing a license under the provisions of
38 this section, the sheriff shall notify the Idaho state police within five (5)
39 days on a form or in a manner prescribed.

40 (5) Notwithstanding the requirements of this section, the sheriff of
41 the county of the applicant's residence may issue a temporary emergency li-
42 cense for good cause pending review under subsection (1) of this section.

43 (6) A city, county or other political subdivision of this state shall
44 not modify the requirements of this section, nor may a political subdivi-
45 sion ask the applicant to voluntarily submit any information not required in
46 this section. A civil action may be brought to enjoin a wrongful refusal to
47 issue a license or a wrongful modification of the requirements of this sec-
48 tion. The civil action may be brought in the county in which the application
49 was made or in Ada county at the discretion of the petitioner. Any person who
50 prevails against a public agency in any action in the courts for a violation

1 of subsections (1) through (5) of this section, shall be awarded costs, in-
2 cluding reasonable attorney's fees incurred in connection with the legal ac-
3 tion.

4 (7) Except in the person's place of abode or fixed place of business, or
5 on property in which the person has any ownership or leasehold interest, a
6 person shall not carry a concealed weapon without a license to carry a con-
7 cealed weapon. For the purposes of this section, a concealed weapon means
8 any dirk, dirk knife, bowie knife, dagger, pistol, revolver or any other
9 deadly or dangerous weapon. The provisions of this section shall not apply
10 to any lawfully possessed shotgun or rifle, any knife, cleaver or other in-
11 strument primarily used in the processing, preparation or eating of food,
12 any knife with a blade four (4) inches or less or any lawfully possessed
13 taser, stun gun or pepper spray.

14 (8) A county sheriff, deputy sheriff or county employee who issues a
15 license to carry a concealed weapon under this section shall not incur any
16 civil or criminal liability as the result of the performance of his duties
17 under this section.

18 (9) While in any motor vehicle, inside the limits or confines of any
19 city, a person shall not carry a concealed weapon on or about his person
20 without a license to carry a concealed weapon. This shall not apply to any
21 firearm located in plain view whether it is loaded or unloaded. A firearm may
22 be concealed legally in a motor vehicle so long as the weapon is disassembled
23 or unloaded.

24 (10) In implementing the provisions of this section on behalf of the
25 state of Idaho, the sheriff shall make applications readily available at the
26 office of the sheriff or at other public offices in his jurisdiction.

27 (11) The sheriff of a county may issue a license to carry a concealed
28 weapon to those individuals between the ages of eighteen (18) and twenty-one
29 (21) years who in the judgment of the sheriff warrant the issuance of the li-
30 cense to carry a concealed weapon. Such issuance shall be subject to limita-
31 tions which the issuing authority deems appropriate. Licenses issued to in-
32 dividuals between the ages of eighteen (18) and twenty-one (21) years shall
33 be easily distinguishable from regular licenses.

34 (12) The requirement to secure a license to carry a concealed weapon un-
35 der this section shall not apply to the following persons:

36 (a) Officials of a county, city, state of Idaho, the United States,
37 peace officers, guards of any jail, court appointed attendants or any
38 officer of any express company on duty;

39 (b) Employees of the adjutant general and military division of the
40 state where military membership is a condition of employment when on
41 duty;

42 (c) Criminal investigators of the attorney general's office, crimi-
43 nal investigators of a prosecuting attorney's office, prosecutors and
44 their deputies;

45 (d) Any person outside the limits of or confines of any city while en-
46 gaged in lawful hunting, fishing, trapping or other lawful outdoor ac-
47 tivity;

48 (e) Any publicly elected Idaho official;

49 (f) Retired peace officers or detention deputies with at least ten (10)
50 years of service with the state or a political subdivision as a peace of-

1 ficer or detention deputy and who have been certified by the peace offi-
2 cer standards and training council;

3 (g) Any person who has a valid permit from a state or local law enforce-
4 ment agency or court authorizing him to carry a concealed weapon. A per-
5 mit issued in another state will only be considered valid if the permit
6 is in the licensee's physical possession.

7 (13) When issuing a license pursuant to this section, the sheriff may
8 require the applicant to demonstrate familiarity with a firearm and shall
9 accept any of the following, provided the applicant may select whichever of
10 the following applies:

11 (a) Completion of any hunter education or hunter safety course approved
12 by the department of fish and game or a similar agency of another state;

13 (b) Completion of any national rifle association firearms safety or
14 training course or any national rifle association hunter education
15 course;

16 (c) Completion of any firearms safety or training course or class
17 available to the general public offered by a law enforcement agency,
18 community college, college, university, or private or public institu-
19 tion or organization or firearms training school, utilizing instruc-
20 tors certified by the national rifle association or the Idaho state
21 police;

22 (d) Completion of any law enforcement firearms safety or training
23 course or class offered for security guards, investigators, special
24 deputies, or any division or subdivision of a law enforcement agency or
25 security enforcement agency;

26 (e) Presents evidence or equivalent experience with a firearm through
27 participation in organized shooting competition or military service;

28 (f) Is licensed or has been licensed to carry a firearm in this state or
29 a county or municipality, unless the license has been revoked for cause;
30 or

31 (g) Completion of any firearms training or training or safety course or
32 class conducted by a state certified or national rifle association cer-
33 tified firearms instructor.

34 (14) A person carrying a concealed weapon in violation of the provisions
35 of this section shall be guilty of a misdemeanor.

36 (15) The sheriff of the county where the license was issued or the sher-
37 iff of the county where the person resides shall have the power to revoke a
38 license subsequent to a hearing in accordance with the provisions of chapter
39 52, title 67, Idaho Code, for any of the following reasons:

40 (a) Fraud or intentional misrepresentation in the obtaining of a li-
41 cense;

42 (b) Misuse of a license, including lending or giving a license to an-
43 other person, duplicating a license or using a license with the intent
44 to unlawfully cause harm to a person or property;

45 (c) The doing of an act or existence of a condition which would have been
46 grounds for the denial of the license by the sheriff;

47 (d) The violation of any of the terms of this section; or

48 (e) The applicant is adjudicated guilty of or receives a withheld judg-
49 ment for a crime which would have disqualified him from initially re-
50 ceiving a license.

1 (16) A person twenty-one (21) years of age or older issued a license to
2 carry a concealed weapon is exempt from any requirement to undergo a records
3 check at the time of purchase or transfer of a firearm from a federally li-
4 censed firearms dealer. However, a temporary emergency license issued un-
5 der subsection (5) of this section shall not exempt the holder of the license
6 from any records check requirement. Temporary emergency licenses shall be
7 easily distinguishable from regular licenses.

8 (17) The attorney general is authorized to negotiate reciprocal agree-
9 ments with other states related to the recognition of licenses to carry
10 concealed weapons. The Idaho state police shall keep a copy and maintain a
11 record of all such agreements, which shall be made available to the public.

12 (18) The provisions of this section are hereby declared to be severable
13 and if any provision of this section or the application of such provision to
14 any person or circumstance is declared invalid for any reason, such declara-
15 tion shall not affect the validity of remaining portions of this section.

16 SECTION 17. That Section 18-3302H, Idaho Code, be, and the same is
17 hereby amended to read as follows:

18 18-3302H. CARRYING OF CONCEALED FIREARMS BY QUALIFIED RETIRED LAW EN-
19 FORCEMENT OFFICERS. (1) A county sheriff shall issue a license to carry a
20 concealed firearm to a qualified retired law enforcement officer provided
21 that the provisions of this section are met.

22 (2) As used in this section:

23 (a) "Firearm" means a handgun and does not include:

- 24 (i) Any machine gun, as defined in 26 U.S.C. section 5845 (b);
25 (ii) Any firearm silencer, as defined in 18 U.S.C. section 921; or
26 (iii) Any destructive device, as defined in 18 U.S.C. section 921.

27 (b) "Qualified retired law enforcement officer" means an individual
28 who:

29 (i) Retired in good standing from service with a public agency as
30 a law enforcement officer, provided that such retirement was for
31 reasons other than mental instability;

32 (ii) Before such retirement, was authorized by law to engage in
33 or supervise the prevention, detection, investigation or prosecu-
34 tion of, or the incarceration of any person for, any violation of
35 law, and had statutory powers of arrest;

36 (iii) Before such retirement, was regularly employed as a law en-
37 forcement officer for an aggregate of fifteen (15) years or more,
38 or retired from service with such agency after completing any ap-
39 plicable probationary period of such service, due to a service-
40 connected disability, as determined by such agency;

41 (iv) Has a nonforfeitable right to benefits under the retirement
42 plan of the agency;

43 (v) During the most recent twelve (12) month period has met, at
44 his own expense, the standards for training and qualification of
45 this state, as required at the discretion of the sheriff under
46 paragraph (d) of this subsection or the agency from which he re-
47 tired for active law enforcement officers, to carry a concealed
48 firearm;

1 (vi) Is not chronically under the influence of alcohol, or un-
2 der the influence of another intoxicating or hallucinatory drug or
3 substance in violation of any provision of federal or state law;

4 (vii) Is not prohibited by federal law from receiving a firearm;

5 (viii) Has a current and valid photographic identification issued
6 by the agency from which the individual retired from service as a
7 law enforcement officer;

8 (ix) Provides by his affidavit, in triplicate, sworn and signed
9 by him under penalty of perjury, that he meets all of the condi-
10 tions set forth in this subsection (2);

11 (x) Pays the fees charged by the sheriff pursuant to this sec-
12 tion; and

13 (xi) Completes the original application or renewal application
14 as provided by this section.

15 (c) "Retired in good standing" means that at the time of his retirement,
16 he was not under investigation, or subject to discipline, for any viola-
17 tion of this state's law enforcement code of conduct.

18 (d) "Standards for training and qualification in this state" means that
19 when issuing a license pursuant to this section, the sheriff may require
20 the applicant to demonstrate familiarity with a firearm by any of the
21 following methods, provided the sheriff may require an applicant to
22 complete more than one (1) firearms safety or training course:

23 (i) Completion of any hunter education or hunter safety course
24 approved by the department of fish and game or a similar agency of
25 another state;

26 (ii) Completion of any national rifle association firearms
27 safety or training course, or any national rifle association
28 hunter education course;

29 (iii) Completion of any firearms safety or training course or
30 class available to the general public offered by a law enforcement
31 agency, community college, college, university, or private or
32 public institution or organization or firearms training school,
33 utilizing instructors certified by the national rifle association
34 or the Idaho state police;

35 (iv) Completion of any law enforcement firearms safety or train-
36 ing course or class offered for security guards, investigators,
37 special deputies, or any division or subdivision of a law enforce-
38 ment agency or security enforcement agency;

39 (v) Presentation of evidence of equivalent experience with a
40 firearm through participation in organized shooting competitions
41 or military service;

42 (vi) Completion of any firearms training or training or safety
43 course or class conducted by a state certified or national rifle
44 association certified firearms instructor; or

45 (vii) Any other firearms safety training that the sheriff may deem
46 appropriate.

47 (3) The original and renewal license applications under this section
48 shall be in triplicate, in a form to be prescribed by the director of the
49 Idaho state police, and shall ask the name, address, description and signa-
50 ture of the licensee, date of birth, social security number, military sta-

1 tus, identification of the law enforcement agency from which the applicant
2 retired, and the driver's license number or state identification card number
3 of the licensee if used for identification in applying for the license. The
4 application shall indicate that provision of the social security number is
5 optional. In implementing the provisions of this section, the sheriff shall
6 make applications readily available at the office of the sheriff or at other
7 public offices in his jurisdiction.

8 (4) The fee for original issuance of a license under this section shall
9 be twenty dollars (\$20.00), paid to the sheriff. The sheriff may also col-
10 lect any additional fees necessary to cover the cost of processing and the
11 cost of materials for the license, which shall also be paid to the sheriff.

12 (5) An original or renewed license issued pursuant to this section
13 shall be in a form substantially similar to that of the Idaho driver's li-
14 cense and shall be valid for a period of one (1) year. The license shall
15 bear the signature, name, address, date of birth, picture of the licensee,
16 expiration date, and the driver's license number or state identification
17 card number of the licensee if used for identification in applying for the
18 license, and shall state that the licensee is a qualified retired law en-
19 forcement officer. Upon issuing a license under the provisions of this
20 section, the sheriff shall notify the Idaho state police on a form or in a
21 manner prescribed by the director of the Idaho state police.

22 (6) A qualified retired law enforcement licensee under this section
23 may renew his license if he applies for renewal at any time before or within
24 ninety (90) days after the expiration date of the license. The sheriff shall
25 require the licensee applying for renewal to complete a renewal application
26 pursuant to subsection (3) of this section and an affidavit pursuant to sub-
27 section (2) of this section. A renewed license shall take effect upon the
28 expiration date of the prior license.

29 (7) The fee for renewal of the license, which must be paid on a yearly
30 basis, shall be twelve dollars (\$12.00), paid to the sheriff. The sheriff
31 may also collect any additional fees necessary to cover the processing costs
32 and the cost of materials for the license, which shall also be paid to the
33 sheriff. A licensee renewing after the expiration date of the license shall
34 pay a late renewal penalty of ten dollars (\$10.00) in addition to the renewal
35 fee. The renewal penalty fee, if any, shall be paid to the sheriff.

36 (8) A current and valid photographic identification issued by the
37 agency from which the individual retired from service as a law enforcement
38 officer, together with a license issued by the sheriff pursuant to this sec-
39 tion, shall serve as a license to carry a firearm for a qualified retired law
40 enforcement officer under 18 U.S.C. section 926C.

41 (9) The sheriff of the county where the license was issued or the sher-
42 iff of the county where the person resides shall have the power to revoke
43 a license issued under this section pursuant to the provisions of section
44 18-3302(15), Idaho Code.

45 (10) A county sheriff, deputy sheriff, or county employee who issues a
46 license to carry a concealed weapon pursuant to this section shall not incur
47 any civil or criminal liability as the result of the performance of his du-
48 ties under this section.

49 (11) A city, county or other political subdivision of this state shall
50 not modify the requirements of this section, nor shall a political subdivi-

1 sion ask the applicant to voluntarily submit any information not required by
2 this section.

3 (12) A civil action may be brought to enjoin a wrongful refusal to is-
4 sue a license or a wrongful modification of the requirements of this section.
5 The civil action shall be brought in the county in which the application was
6 made.

7 (13) In lieu of or in addition to qualification to carry a concealed
8 firearm under this section, a retired law enforcement officer may apply for a
9 license to carry concealed weapons under section 18-3302, Idaho Code.

10 (14) Information relating to an applicant or licensee received or main-
11 tained pursuant to this section by the sheriff or Idaho state police is con-
12 fidential and exempt from disclosure under section ~~9-338~~ 74-102, Idaho Code.

13 SECTION 18. That Section 18-3302K, Idaho Code, be, and the same is
14 hereby amended to read as follows:

15 18-3302K. ISSUANCE OF ENHANCED LICENSES TO CARRY CONCEALED
16 WEAPONS. (1) The sheriff of a county shall, within ninety (90) days after
17 the filing of an application by any person who is not disqualified from pos-
18 sessing or receiving a firearm under state or federal law and has otherwise
19 complied with the requirements of this section for an enhanced license,
20 issue an enhanced license to the person to carry a weapon concealed on his
21 person. Licenses issued under this section shall be valid for five (5) years
22 from the date of issue.

23 (2) A person may file an application with the sheriff of the county in
24 which he resides or, if not an Idaho resident, with the sheriff of any county
25 in Idaho. The license application shall be in a form to be prescribed by the
26 director of the Idaho state police, and shall ask the name, address, descrip-
27 tion and signature of the licensee, date of birth, place of birth, social se-
28 curity number, military status, citizenship and the driver's license number
29 or state identification card number of the licensee if used for identifica-
30 tion in applying for the license. If the applicant is not a U.S. citizen,
31 the application shall also require any alien or admission number issued to
32 the applicant by U.S. immigration and customs enforcement, or any successor
33 agency. The application shall indicate that the provision of the social se-
34 curity number is optional. The sheriff shall make such applications readily
35 available at the office of the sheriff or at other public offices in his ju-
36 risdiction. The license application shall contain a warning substantially
37 as follows:

38 CAUTION: Federal law and state law on the possession of weapons and firearms
39 differ. If you are prohibited by federal law from possessing a weapon or a
40 firearm, you may be prosecuted in federal court. A state permit is not a de-
41 fense to a federal prosecution.

42 (3) The sheriff shall require any person who is applying for original
43 issuance of a license to submit his fingerprints in addition to the other
44 information required in this section. Within five (5) days after the fil-
45 ing of an application, the sheriff shall forward the application and finger-
46 prints to the Idaho state police. The Idaho state police shall conduct a na-
47 tional fingerprint-based records check, an inquiry through the national in-

1 stant criminal background check system, and a check of any applicable state
2 database, including a check for any mental health records that would dis-
3 qualify a person from possessing a firearm under state or federal law, and
4 shall return the results to the sheriff within seventy-five (75) days. If
5 the applicant is not a U.S. citizen, an immigration alien query shall also be
6 conducted through U.S. immigration and customs enforcement or any successor
7 agency. The sheriff shall not issue a license before receiving and reviewing
8 the results of the records check.

9 (4) The sheriff shall deny an enhanced license to carry a concealed
10 weapon if the applicant is disqualified under any of the criteria listed in
11 section 18-3302(1) (a) through (n), Idaho Code, or does not meet all of the
12 following qualifications:

13 (a) Has been a legal resident of the state of Idaho for at least six (6)
14 consecutive months before filing an application under this section or
15 holds a current license or permit to carry concealed firearms issued by
16 his state of residence; and

17 (b) Has successfully completed within twelve (12) months immediately
18 preceding filing an application, a qualifying handgun course as spec-
19 ified in this paragraph and taught by a certified instructor who is not
20 prohibited from possessing firearms under state or federal law. A copy
21 of the certificate of successful completion of the handgun course, in
22 a form to be prescribed by the director of the Idaho state police and
23 signed by the course instructor, shall be submitted to the sheriff at
24 the time of filing an application under this section. Certified in-
25 structors of handgun courses when filing an application under this
26 section shall not be required to submit such certificates but shall sub-
27 mit a copy of their current instructor's credential. The sheriff shall
28 accept as a qualifying handgun course a personal protection course of-
29 fered by the national rifle association or an equivalent course meeting
30 the following requirements:

31 (i) The course instructor is certified by the national rifle as-
32 sociation, or by another nationally recognized organization that
33 customarily certifies firearms instructors, as an instructor in
34 personal protection with handguns, or the course instructor is
35 certified by the Idaho peace officers standards and training coun-
36 cil as a firearms instructor;

37 (ii) The course is at least eight (8) hours in duration;

38 (iii) The course is taught face to face and not by electronic or
39 other means; and

40 (iv) The course includes instruction in:

41 1. Idaho law relating to firearms and the use of deadly
42 force, provided that such instruction is delivered by either
43 of the following whose name and credential shall appear on
44 the certificate:

45 (A) An active licensed member of the Idaho state bar;
46 or

47 (B) A law enforcement officer who possesses an inter-
48 mediate or higher Idaho peace officers standards and
49 training certificate.

1 2. The basic concepts of the safe and responsible use of
2 handguns;

3 3. Self-defense principles; and

4 4. Live fire training including the firing of at least
5 ninety-eight (98) rounds by the student.

6 (5) The license will be in a form substantially similar to that of the
7 Idaho driver's license. It will bear the signature, name, address, date
8 of birth, picture of the licensee, expiration date and the driver's li-
9 cense number or state identification card number of the licensee if used for
10 identification in applying for the license. The license shall be clearly
11 distinguishable from a license issued pursuant to section 18-3302, Idaho
12 Code, and shall be marked "Idaho enhanced concealed weapons license" on
13 its face. Upon issuing a license under the provisions of this section, the
14 sheriff shall notify the Idaho state police within three (3) days on a form
15 or in a manner prescribed by the Idaho state police. Information relating to
16 an applicant or licensee received or maintained pursuant to this section by
17 the sheriff or Idaho state police is confidential and exempt from disclosure
18 under section ~~9-340B~~ 74-105, Idaho Code.

19 (6) The fee for original issuance of a license shall be twenty dollars
20 (\$20.00), which the sheriff shall retain for the purpose of performing the
21 duties required in this section. The sheriff may collect any additional fees
22 necessary to cover the processing costs lawfully required by any state or
23 federal agency or department, and the cost of materials for the license law-
24 fully required by any state agency or department, which costs shall be paid
25 to the state.

26 (7) The fee for renewal of the enhanced license shall be fifteen dollars
27 (\$15.00), which the sheriff shall retain for the purpose of performing du-
28 ties required in this section. The sheriff may collect any additional fees
29 necessary to cover the processing costs lawfully required by any state or
30 federal agency or department, and the cost of materials for the license law-
31 fully required by any state agency or department, which costs shall be paid
32 to the state.

33 (8) Every license that is not, as provided by law, suspended, revoked
34 or disqualified in this state shall be renewable at any time during the
35 ninety (90) day period before its expiration or within ninety (90) days af-
36 ter the expiration date. Renewal notices shall be mailed out ninety (90)
37 days prior to the expiration date of the license. The sheriff shall require
38 the licensee applying for renewal to complete an application. The sheriff
39 shall submit the application to the Idaho state police. The Idaho state
40 police shall conduct the same records checks as required for an initial li-
41 cense under subsection (3) of this section and shall return the results to
42 the sheriff within thirty (30) days. The sheriff shall not issue a renewal
43 before receiving and reviewing the results of the records check and must
44 deny a license if the applicant is disqualified under any of the criteria
45 provided in this section. A renewal license shall be valid for a period of
46 five (5) years. A license so renewed shall take effect on the expiration date
47 of the prior license. A licensee renewing ninety-one (91) days to one hun-
48 dred eighty (180) days after the expiration date of the license shall pay a
49 late renewal penalty of ten dollars (\$10.00) in addition to the renewal fee,
50 except that any licensee serving on active duty in the armed forces of the

1 United States during the renewal period shall not be required to pay a late
2 renewal penalty upon renewing ninety-one (91) days to one hundred eighty
3 (180) days after the expiration date of the license. After one hundred
4 eighty-one (181) days, the licensee shall be required to submit an initial
5 application for an enhanced license and to pay the fees prescribed in subsec-
6 tion (6) of this section. The renewal fee and any penalty shall be paid to the
7 sheriff for the purpose of enforcing the provisions of this chapter. Upon
8 renewing a license under the provisions of this section, the sheriff shall
9 notify the Idaho state police within five (5) days on a form or in a manner
10 prescribed by the Idaho state police.

11 (9) The sheriff shall have the power to revoke a license issued pursuant
12 to this section subsequent to a hearing in accordance with the provisions of
13 chapter 52, title 67, Idaho Code, for any of the following reasons, provided
14 that the sheriff shall notify the Idaho state police within three (3) days on
15 a form or in a manner prescribed by the Idaho state police of any such revoca-
16 tion:

17 (a) Fraud or intentional misrepresentation in the obtaining of a li-
18 cense;

19 (b) Misuse of a license, including lending or giving a license to an-
20 other person, duplicating a license or using a license with the intent
21 to unlawfully cause harm to a person or property;

22 (c) The doing of an act or existence of a condition that would have been
23 grounds for the denial of the license by the sheriff;

24 (d) The violation of any of the provisions of this section; or

25 (e) The applicant is adjudicated guilty of or receives a withheld judg-
26 ment for a crime that would have disqualified him from initially receiv-
27 ing a license.

28 (10) An applicant who provides information on the application for an
29 enhanced license to carry a concealed weapon knowing the same to be untrue
30 shall be guilty of a misdemeanor.

31 (11) The attorney general shall contact the appropriate officials in
32 other states for the purpose of establishing, to the extent possible, recog-
33 nition and reciprocity of the enhanced license to carry a concealed weapon by
34 other states, whether by formal agreement or otherwise.

35 (12) Any license issued pursuant to this section is valid throughout
36 the state of Idaho and shall be considered an authorized state license.

37 (13) The Idaho state police shall maintain a computerized record sys-
38 tem that is accessible to law enforcement agencies in any state for the pur-
39 pose of verifying current enhanced licensee status. Information maintained
40 in the record system shall be confidential and exempt from disclosure under
41 section ~~9-340B~~ 74-105, Idaho Code, except that any law enforcement officer
42 or law enforcement agency, whether inside or outside the state of Idaho, may
43 access the record system for the purpose of verifying current enhanced li-
44 censee status.

45 SECTION 19. That Section 19-1112, Idaho Code, be, and the same is hereby
46 amended to read as follows:

47 19-1112. PROCEEDINGS TO BE SECRET. Every member of the grand jury must
48 keep secret whatever he himself, or any other grand juror may have said, or
49 in what manner he or any other grand juror may have voted on a matter before

1 them; and such matters shall be subject to disclosure according to ~~chapter 3,~~
2 ~~title 9~~ chapter 1, title 74, Idaho Code, but may, however, be required by any
3 court to disclose the testimony of a witness examined before the grand jury,
4 for the purpose of ascertaining whether it is consistent with that given by
5 the witness before the court, or to disclose the testimony given before them
6 by any person, upon a charge against such person for perjury in giving his
7 testimony, or upon trial therefor.

8 SECTION 20. That Section 19-5514, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 19-5514. LIMITATIONS ON DISCLOSURE OF INFORMATION. (1) All DNA pro-
11 files retained by the bureau of forensic services pursuant to this chapter
12 shall be treated as confidential as provided by ~~chapter 3, title 9~~ chapter 1,
13 title 74, Idaho Code.

14 (2) The DNA information shall be filed with the offender's file main-
15 tained by the Idaho state police.

16 (3) The DNA information shall not be included in the state summary crim-
17 inal history information.

18 (4) The DNA information, and thumbprint impressions, shall be released
19 only to law enforcement agencies, including, but not limited to, parole
20 officers of the department of correction, hearing officers of the parole
21 authority, and prosecuting attorneys' offices, at the request of the agency,
22 except as specified in this chapter. Dissemination of this information to
23 law enforcement agencies and prosecuting attorneys' offices outside the
24 state shall be done in conformity with the provisions of this chapter.

25 (5) Any person who, by virtue of employment or official position, or any
26 person contracting to carry out any function under this chapter, including
27 any officers, employees and agents of such contractor who has possession of
28 or access to individual identifiable DNA information contained in the state
29 DNA database or databank and who willfully discloses such information in any
30 manner to any person or agency not entitled to receive it is guilty of a mis-
31 demeanor.

32 (6) Furnishing DNA information or thumbprint comparison results to de-
33 fense counsel for criminal defense purposes in compliance with discovery is
34 not a violation of this section.

35 (7) It is not a violation of this section to disseminate statistical
36 or research information obtained from the offender's file, the computerized
37 databank system, or any of the bureau of forensic services' databases pro-
38 vided that the subject of the file is not identified and cannot be identified
39 from the information disclosed. It is also not a violation of this section
40 to include information obtained from a file in a transcript or record of a ju-
41 dicial proceeding or in any other public record when the inclusion of the in-
42 formation in the public record is authorized by a court, statute or case law.

43 SECTION 21. That Section 19-5801, Idaho Code, be, and the same is hereby
44 amended to read as follows:

45 19-5801. DEFINITIONS. As used in this chapter:

46 (1) "Alternative Idaho mailing address" means the address of a law en-
47 forcement officer's employing entity.

1 (2) "Application" means a written form prescribed and made available
2 by the Idaho peace officer standards and training council. Such application
3 shall contain, at minimum, all of the following:

4 (a) A sworn statement by the law enforcement officer's employing en-
5 tity that the applicant is in fact a law enforcement officer as defined
6 in subsection (6) of this section;

7 (b) A sworn statement by the law enforcement officer that names such of-
8 ficer's residing household member(s), if any, as defined in subsection
9 (11) of this section;

10 (c) The alternative Idaho mailing address as defined in subsection (1)
11 of this section, and the telephone number or numbers where the law en-
12 forcement officer and such officer's residing household member(s) can
13 be contacted by the public agency; and

14 (d) A sworn statement by the law enforcement officer that such officer
15 knowingly and voluntarily designates his or her employing entity as
16 agent for purposes of service of process and receipt of first class,
17 certified or registered mail.

18 (3) "County detention officer" means an employee in a county jail who is
19 responsible for the safety, care, protection and monitoring of county jail
20 inmates.

21 (4) "Custodian" as defined in section ~~9-337~~ 74-101, Idaho Code.

22 (5) "Federal officer" means a special agent or law enforcement officer
23 who is a resident as defined in section 51-102, Idaho Code, employed by a fed-
24 eral agency and who is empowered to effect an arrest with or without a war-
25 rant for violations of the United States Code and who is authorized to carry
26 firearms in the performance of duty.

27 (6) "Law enforcement officer" means any current federal officer, peace
28 officer, parole officer, probation officer, correctional officer, county
29 detention officer and any person who prosecutes criminal cases. The term
30 "law enforcement officer" shall not include a person who holds an elected of-
31 fice.

32 (7) "Parole officer" means an employee of the Idaho department of cor-
33 rection who is charged with or whose duties include supervision of parolees.

34 (8) "Peace officer" means any employee of a police or law enforcement
35 agency which is a part of or administered by the state or any political sub-
36 division thereof and whose duties include and primarily consist of the pre-
37 vention and detection of crime and the enforcement of penal, traffic or high-
38 way laws of this state or any political subdivision. "Peace officer" also
39 means an employee of a police or law enforcement agency of a federally recog-
40 nized Indian tribe who has satisfactorily completed the peace officer stan-
41 dards and training academy and has been deputized by a sheriff of a county or
42 a chief of police of a city of the state of Idaho.

43 (9) "Probation officer" means an employee of the Idaho department of
44 correction or of the Idaho department of juvenile corrections who is charged
45 with or whose duties include supervision of probationers.

46 (10) "Public agency" as is defined in section ~~9-337~~ 74-101, Idaho Code.

47 (11) "Residing household member(s)" means a law enforcement officer's
48 spouse and any child or children who currently reside at the same residential
49 street address as such officer.

1 SECTION 22. That Section 19-5803, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 19-5803. ADDRESS CONFIDENTIALITY -- ELIGIBILITY. (1) Law enforcement
4 officers desiring that their Idaho residential street address and telephone
5 number, and the Idaho residential street address and telephone number of
6 their residing household member(s) be exempt from disclosure pursuant to
7 this chapter and section ~~9-340C~~ 74-106(30), Idaho Code, may submit an appli-
8 cation and a fee, if any, to the custodian of the public record that contains
9 such information. Upon receipt of an application and fee, the public agency
10 shall comply with the provisions of this chapter for a period of four (4)
11 years. Thereafter, law enforcement officers may renew the exemption by sub-
12 mitting a new application and fee, if any. The public agency may establish a
13 fee schedule not to exceed the actual cost to the agency of complying with the
14 provisions of this chapter.

15 (2) Law enforcement officers may submit an application to a public
16 agency requesting that the public agency use an alternative Idaho mailing
17 address rather than the Idaho residential street address of any such officer
18 and of any such officer's residing household member(s) on all applications
19 and on all identification cards, licenses, certificates, permits, tags and
20 other similar documents that are issued to the officer or to such officer's
21 residing household member(s) by the public agency. A public agency receiv-
22 ing such application shall comply with the request.

23 (3) A person shall cease to be eligible for an exemption under this
24 chapter if such person ceases to be a law enforcement officer or a residing
25 household member(s). Within thirty (30) days of such cessation, the person
26 shall notify, in writing, every public agency to which the person has made an
27 application stating that he or she is no longer eligible for such exemption.
28 If a law enforcement officer changes employment but is still eligible for
29 an exemption under this chapter, such law enforcement officer shall, within
30 thirty (30) days of changing employment, submit a new application to every
31 public agency to which such officer has made an application.

32 (4) Nothing in this chapter shall prevent a public agency from obtain-
33 ing the residential street address and telephone number of a law enforcement
34 officer and of any residing household member(s). A law enforcement officer
35 who has submitted an application pursuant to the provisions of this chapter
36 shall provide his or her current Idaho residential street address to his or
37 her employing entity.

38 SECTION 23. That Section 20-226, Idaho Code, be, and the same is hereby
39 amended to read as follows:

40 20-226. RECORDS OF PRISONERS. The state board of correction shall
41 cause a complete record to be kept of every prisoner committed to its cus-
42 tody. Such record shall be organized in accordance with the most modern
43 method of filing and indexing so that there will always be immediately avail-
44 able a complete history on each prisoner. Such records shall be subject to
45 disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

46 SECTION 24. That Section 20-511, Idaho Code, be, and the same is hereby
47 amended to read as follows:

1 20-511. DIVERSION OR INFORMAL DISPOSITION OF THE PETITION. (1) Prior
2 to the filing of any petition under this act, the prosecuting attorney may
3 request a preliminary inquiry from the county probation officer to determine
4 whether the interest of the public or the juvenile requires a formal court
5 proceeding. If court action is not required, the prosecuting attorney may
6 utilize the diversion process and refer the case directly to the county
7 probation officer or a community-based diversion program for informal pro-
8 bation and counseling. If the diversion process is utilized pursuant to this
9 subsection, then statements made by a juvenile in a diversion proceeding
10 shall be inadmissible at an adjudicative proceeding on the underlying charge
11 as substantive evidence of guilt. If community service is going to be uti-
12 lized pursuant to this subsection, the prosecuting attorney shall collect a
13 fee of sixty cents (60¢) per hour for each hour of community service work the
14 juvenile is going to perform and remit the fee to the state insurance fund
15 for the purpose of securing worker's compensation insurance for the juvenile
16 offender performing community service. However, if a county is self-insured
17 and provides worker's compensation insurance for persons performing commu-
18 nity service pursuant to the provisions of this chapter, then remittance to
19 the state insurance fund is not required.

20 (2) After the petition has been filed and where, at the admission or de-
21 nial hearing, the juvenile offender admits to the allegations contained in
22 the petition, the court may decide to make an informal adjustment of the pe-
23 tition. Informal adjustment includes, but is not limited to:

- 24 (a) Reprimand of the juvenile offender;
- 25 (b) Informal supervision with the probation department;
- 26 (c) Community service work;
- 27 (d) Restitution to the victim;
- 28 (e) Participation in a community-based diversion program.

29 (3) The court may dismiss the case upon an application by the juvenile
30 offender if:

- 31 (a) An informal adjustment has been granted and the juvenile offender
32 has satisfied the terms or conditions of the informal adjustment;
- 33 (b) The court is convinced by the showing made that there is no longer
34 cause for continuing the period of informal adjustment; and
- 35 (c) It be compatible with the public interest.

36 (4) Information uniquely identifying the juvenile offender, the of-
37 fense, and the type of program utilized shall be forwarded to the department.
38 This information shall be maintained by the department in a statewide ju-
39 venile offender information system. Access to the information shall be
40 controlled by the department, subject to the provisions of section ~~9-342~~
41 74-113, Idaho Code.

42 (5) Such informal adjustment of the petition shall be conducted in the
43 manner prescribed by the Idaho juvenile rules. When an informal adjustment
44 is made pursuant to this section and the juvenile offender is to perform
45 community service work, the court shall assess the juvenile offender a fee
46 of sixty cents (60¢) per hour for each hour of community service work the
47 juvenile offender is to perform. This fee shall be remitted by the court to
48 the state insurance fund for the purpose of securing worker's compensation
49 insurance for the juvenile offender performing community service. However,
50 if a county is self-insured and provides worker's compensation insurance

1 for persons performing community service pursuant to the provisions of this
2 chapter, then remittance to the state insurance fund is not required.

3 SECTION 25. That Section 20-516, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 20-516. APPREHENSION AND RELEASE OF JUVENILES -- DETENTION. (1) A
6 peace officer may take a juvenile into custody, or a private citizen may
7 detain a juvenile until the juvenile can be delivered forthwith into the
8 custody of a peace officer, without order of the court:

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

12 (b) When in the presence of a peace officer or private citizen the ju-
13 venile has violated any local, state or federal law or municipal ordi-
14 nance; or

15 (c) When there are reasonable grounds to believe the juvenile has com-
16 mitted a status offense. Status offenses are truancy, running away from
17 or being beyond the control of parents, guardian, or legal custodian and
18 curfew violations. Status offenders shall not be placed in any jail fa-
19 cility but instead may be placed in juvenile shelter care facilities,
20 except in the case of runaways, when there is a specific detention re-
21 quest from a foreign jurisdiction to hold the juvenile pending trans-
22 portation arrangements.

23 (2) A peace officer may take a juvenile into custody upon a written or-
24 der or warrant signed by a judge. The judge may issue the order or warrant af-
25 ter finding that there is reasonable cause to believe that the juvenile comes
26 within the purview of this chapter. Such taking into custody shall not be
27 deemed an arrest. Jurisdiction of the court shall attach from the time the
28 juvenile is taken into custody. When an officer takes a juvenile into cus-
29 tody, he shall notify the parent, guardian or custodian of the juvenile as
30 soon as possible. Unless otherwise ordered by the court, or unless it ap-
31 pears to the officer taking the juvenile into custody that it is contrary to
32 the welfare of society or the juvenile, such juvenile shall be released to
33 the custody of his parent or other responsible adult upon written promise,
34 signed by such person, to bring the juvenile to the court at a stated time.
35 Such written promise shall be submitted to the court as soon as possible. If
36 such person shall fail to produce the juvenile as agreed, or upon notice from
37 the court, a summons for such person may be issued by the court and a warrant
38 may be issued for apprehension of the juvenile.

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

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

- 1 Placements may include, but are not limited to, the following:
- 2 (a) Parents of the juvenile;
- 3 (b) Relatives of the juvenile;
- 4 (c) Foster care;
- 5 (d) Group care;
- 6 (e) A juvenile detention center; or
- 7 (f) Community-based diversion programs.
- 8 (5) The person in charge of a detention center shall give immediate no-
- 9 tice to the court that the juvenile is in his custody.
- 10 (6) No juvenile shall be held in detention longer than twenty-four (24)
- 11 hours, exclusive of Saturdays, Sundays and holidays, unless a petition has
- 12 been filed and the court has signed the detention order.
- 13 (7) As soon as a juvenile is detained by court order, his parents,
- 14 guardian or legal custodian shall be informed by notice in writing on forms
- 15 prescribed by the court that they may have a prompt hearing regarding release
- 16 or detention.
- 17 (8) A juvenile taken into detention for an offense shall be finger-
- 18 printed and photographed. Fingerprints and photographs taken of juveniles
- 19 shall be forwarded to the appropriate law enforcement agency and filed with
- 20 the bureau of criminal identification of the Idaho state police which shall
- 21 create a juvenile offender fingerprint file and enter the fingerprint data
- 22 into the automated fingerprint identification system. If the court finds
- 23 good cause it may order the fingerprints and photographs of the juvenile
- 24 offender expunged.
- 25 (9) Peace officers' records of juveniles shall be kept separate from
- 26 records of adults and shall be subject to disclosure according to ~~chapter 3,~~
- 27 ~~title 9~~ chapter 1, title 74, Idaho Code.

28 SECTION 26. That Section 20-525, Idaho Code, be, and the same is hereby

29 amended to read as follows:

- 30 20-525. RECORDS -- PRIVILEGED INFORMATION. (1) The court shall main-
- 31 tain records of all cases brought before it. In proceedings under this act
- 32 the following juvenile courtroom proceedings and records shall be open to
- 33 the public: all proceedings against a juvenile offender of the age of four-
- 34 teen (14) years or older and who is petitioned or charged with an offense
- 35 which would be a felony if committed by an adult including the court docket,
- 36 petitions, complaints, information, arraignments, trials, sentencings,
- 37 probation violation hearings and dispositions, motions and other papers
- 38 filed in any case in any district; transcripts of testimony taken by the
- 39 court; and findings, verdicts, judgments, orders, decrees and other papers
- 40 filed in proceedings before the court of any district.
- 41 (2) Juvenile courtroom proceedings and records shall remain confiden-
- 42 tial when the court and the prosecutor agree extraordinary circumstances ex-
- 43 ist that justify records of a juvenile offender of the age of fourteen (14)
- 44 years or older and who is petitioned or charged with an offense which would be
- 45 a felony if committed by an adult should remain confidential because it is in
- 46 the best interest of the juvenile offender.
- 47 (3) In proceedings under this act the following records and court pro-
- 48 ceedings of juvenile offenders of the age of thirteen (13) years or younger
- 49 shall not be withheld from public inspection, except on court order, which

1 order must be made in writing in each case: the court docket, petitions, com-
 2 plaints, information, arraignments, trials, sentencings, probation viola-
 3 tion hearings and dispositions, motions and other papers filed in any case
 4 in any district; transcripts of testimony taken by the court; and findings,
 5 verdicts, judgments, orders, decrees and other papers filed in proceedings
 6 before the court of any district.

7 (4) These records shall be open to inspection according to ~~chapter 3,~~
 8 ~~title 9~~ chapter 1, title 74, Idaho Code. All information obtained and so-
 9 cial records prepared in the discharge of official duty by an employee of the
 10 court shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter
 11 1, title 74, Idaho Code.

12 (5) The victim of misconduct shall always be entitled to the name of
 13 the juvenile offender involved, the name of the juvenile offender's parents
 14 or guardian, and their addresses and telephone numbers, if available in the
 15 records of the court.

16 (6) Notwithstanding the other provisions of this act and notwithstand-
 17 ing any order entered pursuant hereto, nothing in this act shall prohibit the
 18 exchange of records created pursuant to this act between prosecuting attor-
 19 neys or courts in this state.

20 SECTION 27. That Section 20-804, Idaho Code, be, and the same is hereby
 21 amended to read as follows:

22 20-804. AUTHORITY OF COUNTY OR CITY TO HOUSE PRISONERS IN A PRIVATE
 23 PRISON FACILITY. (1) A board of county commissioners or the governing body
 24 of a city may authorize the housing of specific minimum to medium security
 25 prisoners of the county or the city in a private prison facility pursuant to
 26 contract with the private prison contractor and subject to the review and ap-
 27 proval of the prisoners by the department of correction. Provided, however,
 28 that in no event shall a board of county commissioners or the governing body
 29 of a city authorize, nor shall the department of correction approve, housing
 30 of any maximum or close custody prisoners, inmates imprisoned for sexual
 31 offenses or prisoners with a history or record of institutional violence
 32 involving the use of a deadly weapon, a history or record of committing any
 33 act of an assaultive nature that would qualify as a felony under the laws of
 34 the state of Idaho against any prisoner, employee or visitor while confined,
 35 or a history or record of escape or attempted escape from secure custody.

36 (2) A board of county commissioners may not contract with a private
 37 prison contractor in which a commissioner or an elected or appointed peace
 38 officer or other county official has an interest pursuant to ~~chapter 2, title~~
 39 ~~59~~ chapter 5, title 74, Idaho Code. The governing body of a city may not
 40 contract with a private prison contractor in which the mayor, a member of the
 41 city council, or any appointed peace officer or other city official has an
 42 interest pursuant to ~~chapter 2, title 59~~ chapter 5, title 74, Idaho Code. A
 43 contract made in violation of the provisions of this subsection is voidable.

44 SECTION 28. That Section 22-606, Idaho Code, be, and the same is hereby
 45 amended to read as follows:

46 22-606. FORMULAS. The department may require submission of the com-
 47 plete formula of any fertilizer and the source of all ingredients if it

1 is deemed necessary for the registration of any fertilizer product or the
 2 administration of this chapter. Any formula so submitted is exempt from
 3 disclosure to the public pursuant to section ~~9-340D~~ 74-107(1) or (2), Idaho
 4 Code.

5 SECTION 29. That Section 22-609, Idaho Code, be, and the same is hereby
 6 amended to read as follows:

7 22-609. TONNAGE REPORTS. (1) The registrant or tonnage-only distribu-
 8 tor distributing or selling fertilizer to a nonregistrant or consumer shall
 9 furnish to the department a report showing the amount (in tons) of each grade
 10 of fertilizer, and the form in which the fertilizer was distributed (dry or
 11 liquid). In the case of fertilizer sold to an intermediate distributor, the
 12 registrant, tonnage-only distributor, or distributor shall list the name,
 13 address, telephone number, and amount (in tons) of each fertilizer product
 14 sold to each intermediate distributor.

15 (2) Information furnished to the department under this section is ex-
 16 empt from disclosure under section ~~9-340D~~ 74-107(1) or (2), Idaho Code, if
 17 the disclosure would divulge the operation of any person.

18 SECTION 30. That Section 22-1215, Idaho Code, be, and the same is hereby
 19 amended to read as follows:

20 22-1215. ACCESS TO RECORDS. All papers, records, correspondence, com-
 21 munications and proceedings of the Idaho potato commission shall be subject
 22 to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho
 23 Code.

24 SECTION 31. That Section 22-2206, Idaho Code, be, and the same is hereby
 25 amended to read as follows:

26 22-2206. SUBMISSION OF FORMULAS. The department may require submis-
 27 sion of the complete formula of any soil amendment or plant amendment and the
 28 source(s) of all ingredients if it is deemed necessary for the registration
 29 of any soil amendment or plant amendment product or administration of this
 30 chapter. Any formula so submitted is exempt from disclosure to the public
 31 pursuant to section ~~9-340D~~ 74-107(1) or (2), Idaho Code.

32 SECTION 32. That Section 22-2209, Idaho Code, be, and the same is hereby
 33 amended to read as follows:

34 22-2209. TONNAGE REPORTS -- REQUIRED. (1) The registrant distribu-
 35 ting or selling soil amendments or plant amendments to a nonregistrant or con-
 36 sumer shall furnish to the department a report showing the amounts in tons of
 37 each registered brand of plant amendment and soil amendment, and the form in
 38 which the plant amendment and soil amendment was distributed, dry or liquid.
 39 In the case of soil amendments or plant amendments distributed to an inter-
 40 mediate distributor, the registrant or distributor shall list the current
 41 name, address, telephone number, and amount in tons of each soil amendment
 42 and plant amendment product distributed to each intermediate distributor.

1 (2) Information furnished to the department under this section is ex-
2 empt from disclosure under section ~~9-340D~~ 74-107(1) or (2), Idaho Code, if
3 the disclosure would divulge the operation of any person.

4 SECTION 33. That Section 22-2718, Idaho Code, be, and the same is hereby
5 amended to read as follows:

6 22-2718. IDAHO STATE SOIL AND WATER CONSERVATION COMMISSION. (1)
7 There is hereby established and created in the department of agriculture of
8 the state of Idaho the Idaho state soil and water conservation commission
9 which shall perform all functions conferred upon it by this chapter and shall
10 be a nonregulatory agency. The commission shall consist of five (5) members
11 appointed by the governor. In appointing commission members, the governor
12 shall give consideration to geographic representation. Commission members
13 shall be chosen with due regard to their demonstrated expertise including,
14 but not limited to, knowledge of and interest in water quality and other
15 natural resource issues, production agriculture, banking or other similar
16 financial experience or experience as a county commissioner. The soil and
17 water conservation districts may submit to the governor a list of up to three
18 (3) names for each vacancy on the commission and the governor may, in his
19 discretion, consider any such submission in the appointment of commission
20 members. The term of office of each commission member shall be five (5)
21 years; except that upon July 1, 2010, the governor shall appoint one (1)
22 member for a term of one (1) year, one (1) member for a term of two (2) years,
23 one (1) member for a term of three (3) years, one (1) member for a term of four
24 (4) years and one (1) member for a term of five (5) years. From and after the
25 initial appointment the governor shall appoint a member of the commission to
26 serve in office for a term of five (5) years commencing upon July 1 of that
27 year. A vacancy which occurs in an unexpired term shall be filled for its re-
28 mainder by the governor's appointment. Each vacancy on the commission shall
29 be filled by appointment by the governor. Such appointments shall be con-
30 firmed by the senate. Commission members shall serve at the pleasure of the
31 governor. The commission may invite the state conservationist of the United
32 States department of agriculture natural resources conservation service, a
33 representative from a district or districts and the dean of the college of
34 agriculture of the university of Idaho or his designated representative,
35 or any other person or entity as the commission deems appropriate, to serve
36 as nonvoting advisory members of the commission. The commission shall keep
37 a record of its official actions, shall adopt a seal, which seal shall be
38 judicially noticed, and may perform such acts, hold such public hearings and
39 promulgate such rules as may be necessary for the execution of its functions
40 under this chapter.

41 (2) The state soil and water conservation commission shall appoint
42 the administrator of the state soil and water conservation commission. The
43 state soil and water conservation commission may employ such technical ex-
44 perts and such other agents and employees, permanent and temporary, as it
45 may require, and shall determine their qualifications, duties and compen-
46 sation. The commission may call upon the attorney general of the state for
47 such legal services as it may require. It shall have authority to delegate to
48 its chairman, to one (1) or more of its members, or to one (1) or more agents
49 or employees, such powers and duties as it may deem proper. The commission

1 may establish offices, incur expenses, enter into contracts and acquire
2 services and personal property as may be reasonable for the proper adminis-
3 tration and enforcement of this chapter. Upon request of the commission, for
4 the purpose of carrying out any of its functions, the supervising officer of
5 any state agency, or of any state institution of learning, shall insofar as
6 may be possible under available appropriation, and having due regard to the
7 needs of the agency to which the request is directed, assign or detail to the
8 commission members of the staff or personnel of such agency or institution of
9 learning, and make such special reports, surveys or studies as the commis-
10 sion may request.

11 (3) The commission shall designate its chairman, and may from time to
12 time, change such designation. A majority of the commission shall consti-
13 tute a quorum and the concurrency of a majority in any matter within their
14 duties shall be required for its determination. The chairman and members of
15 the commission shall be compensated as provided by section 59-509(h), Idaho
16 Code. The commission shall provide for the execution of surety bonds for all
17 employees and officers who shall be entrusted with funds or property; shall
18 provide for the keeping of a full and accurate record of all proceedings and
19 of all resolutions, and orders issued or adopted; and shall provide for an
20 annual audit of the accounts of receipts and disbursements.

21 (4) In addition to the duties and powers hereinafter conferred upon the
22 state soil and water conservation commission, it shall have the following
23 responsibilities:

24 (a) To offer such assistance as may be appropriate to the supervisors of
25 soil conservation districts in the carrying out of any of their powers
26 and programs.

27 (b) To keep the supervisors of each of the several soil conservation
28 districts informed of the activities and experience of all other soil
29 conservation districts and to facilitate an interchange of advice and
30 experience between such districts and cooperation between them.

31 (c) To coordinate the progress of the several soil conservation dis-
32 tricts so far as this may be done by advice and consultation.

33 (d) To secure the cooperation and assistance of the United States and
34 any of its agencies, and of agencies of this state, in the work of such
35 districts.

36 (e) To disseminate information throughout the state concerning the ac-
37 tivities and programs of the soil conservation districts in areas where
38 their organization is desirable.

39 (f) To provide for the establishment and encouragement of the "Idaho
40 OnePlan" as a primary computer-based conservation planning process for
41 all natural resource concerns. Establishment and encouragement will
42 be accomplished through an executive group and steering committee both
43 containing private, state and federal representation. The information
44 provided by those using the "Idaho OnePlan" shall be deemed to be trade
45 secrets, production records or other proprietary information and shall
46 be kept confidential and shall be exempt from disclosure pursuant to
47 section ~~9-340D~~ 74-107, Idaho Code.

48 (5) In addition to other powers, functions and duties of soil conserva-
49 tion districts and the state soil and water conservation commission provided

1 in this chapter, the commission shall have the following additional powers,
2 functions and duties:

3 (a) The commission shall conduct, in cooperation with appropriate fed-
4 eral and state agencies and the owners and operators of privately owned
5 forest lands, rangelands and agricultural lands in this state, conser-
6 vation improvements on or in respect to these lands for the purposes of
7 implementing conservation systems to conserve and improve natural re-
8 source conditions;

9 (b) The commission shall assist and advise soil conservation districts
10 and other entities in implementing the conservation improvements,
11 projects and the water quality program for agriculture. To the extent
12 that there are available general funds, the commission shall provide
13 for grants and cost-share opportunities and, as legislatively desig-
14 nated, utilize the resource conservation and rangeland development
15 fund for loans for conservation improvements. Provided however, that
16 the commission shall determine whether general or resource conserva-
17 tion and rangeland development funds are available before approving any
18 conservation improvements, projects and cost-share opportunities and,
19 after having made such determination, shall enter into the necessary
20 contracts for implementation;

21 (c) The commission shall be the agency responsible for the administra-
22 tion of funds accruing to the resource conservation and rangeland de-
23 velopment fund and for all general funds appropriated as a separate and
24 distinct action of the legislature to implement the powers, functions
25 and duties of soil conservation districts and the commission;

26 (d) On or before March 1 of each year, the commission shall report to the
27 senate agricultural affairs committee and the house agricultural af-
28 fairs committee; and

29 (e) The commission shall promulgate such rules as are necessary to
30 carry out the purposes of this chapter.

31 SECTION 34. That Section 22-3309, Idaho Code, be, and the same is hereby
32 amended to read as follows:

33 22-3309. DUTIES AND POWERS OF COMMISSION. (1) Consistent with the gen-
34 eral purposes of this chapter, the commission shall establish the policies
35 to be followed in the accomplishments of such purposes.

36 (2) In the administration of this act, the commission shall have the
37 following duties, authorities and powers:

38 (a) To conduct a campaign of research, education and publicity.

39 (b) To find new markets for wheat and wheat products.

40 (c) To give, publicize and promulgate reliable information showing the
41 value of wheat and wheat products for any purpose for which it is found
42 useful and profitable.

43 (d) To make public and encourage the widespread national and interna-
44 tional use of the special kinds of wheat and wheat products produced
45 from all varieties of wheat grown in Idaho.

46 (e) To investigate and participate in studies of the problems peculiar
47 to the producers of wheat in Idaho.

48 (3) The commission shall have the duty, power and authority:

1 (a) To take such action as the commission deems necessary or advisable
2 in order to stabilize and protect the wheat industry of the state and the
3 health and welfare of the public.

4 (b) To sue and be sued.

5 (c) To enter into such contracts as may be necessary or advisable.

6 (d) To appoint and employ officers, agents and other personnel, includ-
7 ing experts in agriculture and the publicizing of the products thereof,
8 and to prescribe their duties and fix their compensation.

9 (e) To make use of such advertising means and methods as the commission
10 deems advisable and to enter into contracts and agreements for research
11 and advertising within and without the state.

12 (f) To cooperate with any local, state or national organization or
13 agency, whether voluntary or created by the law of any state or by
14 national law, engaged in work or activities similar to the work and ac-
15 tivities of the commission, and to enter into contracts and agreements
16 with such organizations or agencies for carrying on a joint campaign of
17 research, education and publicity and reciprocal enforcement.

18 (g) To lease, purchase or own the real or personal property deemed nec-
19 essary in the administration of this act.

20 (h) To prosecute in the name of the state of Idaho any suit or action for
21 collection of the tax or assessment provided for in this act.

22 (i) To adopt, rescind, modify and amend all necessary and proper or-
23 ders, resolutions and regulations for the procedure and exercise of its
24 powers and the performance of its duties, including the calling of any
25 referendum of the wheat growers in the state of Idaho as deemed neces-
26 sary by the commission.

27 (j) To incur indebtedness and carry on all business activities.

28 (k) To keep books and records and accounts of all its doings, which
29 books, records and accounts shall be open to inspection by the state
30 controller at all times and to the public as set forth in ~~chapter 3, ti-~~
31 ~~tle 9~~ chapter 1, title 74, Idaho Code.

32 SECTION 35. That Section 22-4909A, Idaho Code, be, and the same is
33 hereby amended to read as follows:

34 22-4909A. EFFECT OF FEDERAL ENVIRONMENTAL PROTECTION AGENCY ENFORCE-
35 MENT ACTION. The Idaho department of agriculture shall have authority to ad-
36 minister all laws to protect the quality of water within the confines of a
37 beef cattle animal feeding operation that is not under permit issued by the
38 federal environmental protection agency. In addition, the nutrient manage-
39 ment plan, and all information generated by the beef cattle feeding oper-
40 ation as a result of such plan, shall be deemed to be trade secrets, pro-
41 duction records or other proprietary information, shall be kept confiden-
42 tial and shall be exempt from disclosure pursuant to section ~~9-340D~~ 74-107,
43 Idaho Code. In any case in which the United States environmental protec-
44 tion agency initiates an enforcement action regarding an alleged noncompli-
45 ance at a beef cattle animal feeding operation, any pending administrative
46 or civil enforcement action initiated by the director regarding the same al-
47 leged noncompliance shall be deemed void. If a compliance order addressing
48 the alleged noncompliance has already been issued by the director, that or-
49 der shall remain in full force and effect.

1 SECTION 36. That Section 22-5119, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 22-5119. CONFIDENTIAL AND PROTECTED RECORDS. Records required by
4 the department to validate the collection and remittance of assessments,
5 including, but not limited to, production summaries, receiving records,
6 conditioning reports, records relating to the payment of seed crops and
7 seed indemnity fund reporting forms of a seed buyer, and financial records
8 that may be required pursuant to section 22-5113(4), Idaho Code, shall be
9 held confidential and will be protected as production records according to
10 ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. These records shall not
11 be subject to disclosure unless specifically authorized in writing by the
12 licensee or as otherwise authorized pursuant to the provisions of ~~chapter 3,~~
13 ~~title 9~~ chapter 1, title 74, Idaho Code.

14 SECTION 37. That Section 23-515, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 23-515. INSPECTION AND EXAMINATION OF RECORDS OF PERMITS AND
17 SALES. The records of the division with respect to permits and sales there-
18 under shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter
19 1, title 74, Idaho Code.

20 SECTION 38. That Section 25-207B, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 25-207B. IDENTIFICATION OF LIVESTOCK, POULTRY OR FISH -- RULES FOR
23 DISEASE CONTROL. (1) In order to provide for disease control and increase the
24 traceability of infected or exposed animals or fish, the division of animal
25 industries, in cooperation with the state brand board, is authorized to pro-
26 mulgate rules for the identification of livestock, poultry or fish and the
27 registration of premises where such animals or fish are held.

28 (2) All data and information collected by the division of animal indus-
29 tries or the state brand board pursuant to the provisions of this section,
30 or rules promulgated hereunder, shall not be considered a public record and
31 shall be exempt from public disclosure requirements as provided in section
32 ~~9-340D~~ 74-107, Idaho Code.

33 SECTION 39. That Section 25-2714, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 25-2714. PUBLICATIONS. The director shall publish at least annually,
36 in such forms as he may deem proper, information concerning the sales of com-
37 mercial feeds, together with such data on their production and use as he may
38 consider advisable, and a report of the results of the analyses of official
39 samples of commercial feeds sold within the state as compared with the analy-
40 ses guaranteed in the registration and on the label; provided, however, that
41 the information concerning production and use of commercial feeds shall not
42 disclose the operations of any person and the information shall be subject to
43 disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

1 SECTION 40. That Section 25-3806, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 25-3806. INSPECTIONS -- RECORDS CONFIDENTIAL. The director or his
4 designee is authorized to enter and inspect any agricultural operation
5 and have access to or copy any facility records deemed necessary to ensure
6 compliance with the provisions of this chapter or required odor management
7 plans. Prior to conducting an investigation, the department shall notify
8 the board of county commissioners for the county in which the agricultural
9 operation is located and the board of county commissioners may have a de-
10 signee accompany the director or his designee during the inspection. All
11 records copied or obtained by the director or his designee as a result of an
12 inspection pursuant to this section shall be confidential private records
13 and shall be exempt from disclosure under ~~chapter 3, title 9~~ chapter 1, title
14 74, Idaho Code, except:

- 15 (1) Records otherwise deemed to be public records not exempt from dis-
16 closure pursuant to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code; and
17 (2) Inspection reports, determinations of compliance or noncompliance
18 and all other records created by the director or his designee pursuant to
19 this section.

20 SECTION 41. That Section 25-3807, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 25-3807. COMPLAINTS. The department shall respond to all odor com-
23 plaints lodged against agriculture operations. A complaint must include the
24 name, address and telephone number of the complainant. The response of the
25 department may be limited to informing the complainant that an odor plan is
26 being implemented. Complaints pursuant to this section are a public record
27 open to public inspection and copying pursuant to ~~chapter 3, title 9~~ chapter
28 1, title 74, Idaho Code.

29 SECTION 42. That Section 26-1111, Idaho Code, be, and the same is hereby
30 amended to read as follows:

31 26-1111. RECORDS NOT PUBLIC. (1) The department of finance shall keep
32 proper books and records of all regulatory acts, matters and things done by
33 it under the provisions of chapters 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 18,
34 21, 26, 32, 33, 34, 35, 36 and 37, title 26, Idaho Code, as records of its
35 office, but the same shall be subject to disclosure according to ~~chapter 3,~~
36 ~~title 9~~ chapter 1, title 74, Idaho Code, except as otherwise provided in this
37 section and in sections 26-1112 and 67-2743E, Idaho Code.

38 (2) All written communications and copies thereof, between the depart-
39 ment, the director, department employees and any bank, bank holding company,
40 trust company, savings and loan association and credit union which relate
41 in any manner to the examination or condition of the financial institution,
42 are the property of the department of finance and, if acquired by any person,
43 shall be returned to the department upon written demand.

44 (3) (a) The director of the department of finance, any federal bank or
45 other financial institution regulatory or supervisory agency, and any
46 bank, bank holding company, trust company, savings and loan associa-

1 tion, or credit union incorporated or chartered under title 26, Idaho
 2 Code, or under federal law or the law of any state and doing business in
 3 the state of Idaho, shall each have a privilege to refuse to disclose
 4 and to prevent any other person from disclosing confidential communica-
 5 tions, and the contents of any documents relating to any confidential
 6 communications, between the financial institution and the department
 7 of finance or federal bank or financial institution regulatory or su-
 8 pervisory agency made during the regulatory relationship.

9 (b) A communication is confidential if it is made during the regula-
 10 tory relationship between the department of finance or the federal bank
 11 or other financial institution regulatory or supervisory agency and any
 12 such bank, bank holding company, trust company, savings and loan asso-
 13 ciation or credit union, and if the communication is not designed or in-
 14 tended for disclosure to any other parties.

15 (c) The privilege may be claimed by the financial institution or by the
 16 department of finance or the federal bank or other financial institu-
 17 tion regulatory or supervisory agency, or by the lawyer for either. The
 18 privilege may be waived only in accordance with this section and sec-
 19 tions 26-1112 and 67-2743E, Idaho Code.

20 (d) The director of the department of finance or the appropriate of-
 21 ficer or employee of the federal bank or other financial institution
 22 regulatory or supervisory agency may disclose confidential communica-
 23 tions between the department or agency and financial institutions to
 24 the court, in camera, in a civil action. Such disclosure shall also be a
 25 privileged communication and the privilege may be claimed by the direc-
 26 tor, officer or employee or his lawyer.

27 (e) No sanction may be imposed upon any financial institution as a re-
 28 sult of the claim of a privilege by the financial institution or the di-
 29 rector of the department of finance or the officer or employee of the
 30 federal supervisory agency under this section.

31 SECTION 43. That Section 26-1112, Idaho Code, be, and the same is hereby
 32 amended to read as follows:

33 26-1112. PENALTY FOR DISCLOSURE OF CONFIDENTIAL INFORMATION. (1) Nei-
 34 ther the department of finance, its director nor its employees shall dis-
 35 close to any person or agency any fact or information obtained in the course
 36 of business of the department under this act, except in the following cases:

37 (a) When by the terms of this act or ~~chapter 3, title 9~~ chapter 1, title
 38 74, Idaho Code, it is made the duty of the department to make public records
 39 and publish the same.

40 (b) When the department is required by law to take special action re-
 41 garding the affairs of any bank.

42 (c) When called as a witness in any criminal proceeding in a court of
 43 competent jurisdiction, provided that the court must review such informa-
 44 tion in chambers to determine the necessity of disclosing such information,
 45 and subject to the privilege provided by subsection (3) of section 26-1111,
 46 Idaho Code.

47 (d) When, in the case of a problem bank, it is necessary or advisable, in
 48 the discretion of the director, for the good of the public or of the deposi-
 49 tors.

1 (e) When, in the discretion of the department, it is advisable to dis-
2 close any such information to a state or federal bank supervisory agency.

3 (2) Any person violating the provisions of this section shall be guilty
4 of a felony and conviction shall subject the offender to a forfeiture of his
5 office or employment.

6 SECTION 44. That Section 26-2610, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 26-2610. COOPERATIVE AGREEMENTS. (1) The director is authorized to
9 enter into cooperative and reciprocal agreements with other financial
10 institution regulatory agencies, both federal and state, and from bank su-
11 pervisory authorities from foreign countries, to facilitate the regulation
12 of financial institutions and financial institution holding companies doing
13 business in this state. The director may accept reports of examinations and
14 other records from such other agencies in lieu of conducting his own examina-
15 tions of financial institutions controlled by financial institution holding
16 companies located in other states. The director may share examination re-
17 ports with such other agencies. The director may examine such institutions
18 in Idaho, in the financial institution's home state or such other location as
19 may be necessary. The director may take any action jointly with other regu-
20 latory agencies having concurrent jurisdiction over financial institutions
21 and financial institution holding companies doing business in this state or
22 may take such actions independently in order to carry out his responsibil-
23 ities.

24 (2) The director may, in his discretion, enter into agreements with a
25 professional association of which the department is a member. The purposes
26 of such agreements may include the facilitation of examination of banks
27 or bank holding companies operating in other states in addition to Idaho.
28 Notwithstanding any other provision of law, such examination agreements
29 may provide for the exchange of bank information, including examination
30 reports, with such a professional association; provided however, that such
31 communication shall not constitute a public disclosure of such records under
32 ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, nor a waiver of the statu-
33 tory privilege in section 26-1111, Idaho Code.

34 SECTION 45. That Section 26-2916, Idaho Code, be, and the same is hereby
35 amended to read as follows:

36 26-2916. CONFIDENTIALITY OF DATA SUBMITTED TO THE DIRECTOR. (1) All
37 information or reports obtained by the director from an applicant, licensee
38 or authorized representative, whether obtained through reports, applica-
39 tions, examinations, audits, investigation, or otherwise including, but not
40 limited to:

41 (a) All information contained in or related to examination, investiga-
42 tion, operating, or condition reports reported by, on behalf of, or for
43 the use of the director; or

44 (b) Financial statements, balance sheets, or authorized representa-
45 tive information;

46 are confidential trade secrets and may not be disclosed or distributed out-
47 side the department in accordance with the provisions of ~~chapter 3, title 9~~

1 chapter 1, title 74, Idaho Code, by the director or any officer or employee of
2 the department.

3 (2) The director, however, may provide for the release of information
4 to representatives of state or federal agencies who state in writing that
5 they shall maintain the confidentiality of such information or if the direc-
6 tor finds that the release is reasonably necessary for the protection of the
7 public and in the interests of justice.

8 (3) Nothing in this section shall prohibit the director from releasing
9 to the public a list of persons licensed under the provisions of this chapter
10 or to release aggregated financial data on such licensees.

11 SECTION 46. That Section 26-31-103, Idaho Code, be, and the same is
12 hereby amended to read as follows:

13 26-31-103. DIRECTOR'S AUTHORITY UNDER THE NATIONWIDE MORTGAGE LI-
14 CENSING SYSTEM AND REGISTRY. (1) The legislature has determined that a
15 nationwide mortgage licensing system and registry for mortgage brokers,
16 mortgage lenders and mortgage loan originators is consistent with both the
17 public interest and the purposes of this chapter.

18 (2) For the sole purpose of participating in the nationwide mortgage
19 licensing system and registry, the director is authorized to:

20 (a) Modify by rule the license renewal dates under this chapter;

21 (b) Establish by rule such new requirements as are necessary for the
22 state of Idaho to participate in the nationwide mortgage licensing sys-
23 tem and registry upon the director's finding that each new requirement
24 is consistent with both the public interest and the purposes of this
25 chapter; and

26 (c) Require a background investigation of each applicant and each con-
27 trol person of an applicant for a mortgage broker, mortgage lender or
28 mortgage loan originator license by means of fingerprint checks by the
29 Idaho state police and the FBI for state and national criminal history
30 record checks. The information obtained thereby may be used by the
31 director to determine the applicant's eligibility for licensing under
32 this chapter. The fee required to perform the criminal history record
33 check shall be borne by the license applicant. Information obtained or
34 held by the director pursuant to this subsection shall be considered
35 confidential personal information and shall be exempt from disclosure
36 pursuant to section ~~9-340C~~ 74-106(8) and (9), Idaho Code.

37 SECTION 47. That Section 26-31-315, Idaho Code, be, and the same is
38 hereby amended to read as follows:

39 26-31-315. CONFIDENTIALITY. In order to promote effective regulation
40 and reduce regulatory burden through supervisory information sharing:

41 (1) Except as otherwise provided in section 1512, P.L. 110-289, the
42 requirements under any federal law or ~~chapter 3, title 9~~ chapter 1, title
43 74, Idaho Code, regarding the privacy or confidentiality of any information
44 or material provided to the NMLSR, and any privilege arising under federal
45 or Idaho state law, including the rules of any federal or Idaho state court,
46 with respect to such information or material, shall continue to apply to such
47 information or material after the information or material has been disclosed

1 to the NMLSR. Such information and material may be shared with all state and
2 federal regulatory officials having mortgage industry oversight authority
3 without the loss of privilege or the loss of confidentiality protections
4 provided by federal law or ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

5 (2) For these purposes, the director is authorized to enter into
6 agreements or sharing arrangements with other governmental agencies, the
7 conference of state bank supervisors, the American association of residen-
8 tial mortgage regulators or other associations representing governmental
9 agencies as established by rule or order of the director.

10 (3) Information or material that is subject to a privilege or confiden-
11 tiality under subsection (1) of this section shall not be subject to:

12 (a) Disclosure under any federal or state law governing the disclosure
13 to the public of information held by an officer or an agency of the fed-
14 eral government or the respective state; or

15 (b) Subpoena or discovery, or admission into evidence, in any private
16 civil action or administrative process, unless with respect to any
17 privilege held by the NMLSR with respect to such information or mate-
18 rial, the person to whom such information or material pertains waives,
19 in whole or in part, in the discretion of such person, that privilege.

20 (4) Coordination with ~~chapter 3, title 9~~ chapter 1, title 74, Idaho
21 Code, relating to the disclosure of confidential supervisory information or
22 any information or material described in subsection (1) of this section that
23 is inconsistent with subsection (1) shall be superseded by the requirements
24 of this section.

25 (5) This section shall not apply with respect to the information or ma-
26 terial relating to the employment history of, and publicly adjudicated dis-
27 disciplinary and enforcement actions against, mortgage loan originators that
28 is included in the NMLSR for access by the public.

29 SECTION 48. That Section 28-46-106, Idaho Code, be, and the same is
30 hereby amended to read as follows:

31 28-46-106. INVESTIGATORY POWERS. (1) If the administrator has cause
32 to believe that a person has engaged in conduct or committed an act that is
33 subject to action by the administrator, he may make an investigation to de-
34 termine whether the person has engaged in the conduct or committed the act.
35 To the extent necessary for this purpose, he may administer oaths or affir-
36 mations, and, upon his own motion or upon request of any party, subpoena wit-
37 nesses, compel their attendance, adduce evidence, and require the produc-
38 tion of, or testimony as to, any matter relevant to the investigation, in-
39 cluding the existence, description, nature, custody, condition, and loca-
40 tion of any books, documents, or other tangible things and the identity and
41 location of persons having knowledge of relevant facts, or any other matter
42 reasonably calculated to lead to the discovery of admissible evidence.

43 (2) If the person's records are located outside this state, the person
44 at his option shall make them available to the administrator at a convenient
45 location within this state or pay the reasonable and necessary expenses for
46 the administrator or his representative to examine them where they are lo-
47 cated. The administrator may designate representatives, including compara-
48 ble officials of the state in which the records are located, to inspect them
49 on his behalf.

1 (3) Upon application by the administrator showing failure without law-
 2 ful excuse to obey a subpoena or to give testimony, and upon reasonable no-
 3 tice to all persons affected thereby, the court shall grant an order com-
 4 pelling compliance.

5 (4) The name or identity of a person whose acts or conduct the adminis-
 6 trator investigates pursuant to this section or the facts disclosed in the
 7 investigation shall be subject to disclosure according to ~~chapter 3, title 9~~
 8 chapter 1, title 74, Idaho Code, but this subsection does not apply to dis-
 9 closures in actions or enforcement proceedings pursuant to this act.

10 SECTION 49. That Section 28-46-304, Idaho Code, be, and the same is
 11 hereby amended to read as follows:

12 28-46-304. RECORDS -- ANNUAL REPORTS. (1) Every regulated lender
 13 shall maintain records in conformity with generally accepted accounting
 14 principles and practices in a manner that will enable the administrator to
 15 determine whether the regulated lender is complying with the provisions of
 16 this act. The recordkeeping system of a regulated lender shall be sufficient
 17 if he makes the required information reasonably available. The records need
 18 not be kept in the place of business where regulated consumer loans are made,
 19 if the administrator is given free access to the records wherever located.
 20 The records pertaining to any loan need not be preserved for more than two (2)
 21 years after making the final entry relating to the loan, but in the case of an
 22 open-end account, the two (2) years is measured from the date of each entry.

23 (2) Concurrent with license renewal, on or before May 31 of each year,
 24 every licensee shall file with the administrator a composite annual report
 25 for the prior calendar year in the form prescribed by the administrator re-
 26 lating to all regulated consumer loans made by him. Information contained in
 27 annual reports shall be subject to disclosure according to ~~chapter 3, title 9~~
 28 chapter 1, title 74, Idaho Code, and may be published only in composite form.

29 SECTION 50. That Section 28-46-409, Idaho Code, be, and the same is
 30 hereby amended to read as follows:

31 28-46-409. RECORDS -- ANNUAL REPORTS. (1) Every licensee shall main-
 32 tain records in conformity with generally accepted accounting principles
 33 and practices in a manner that will enable the administrator to determine
 34 whether the licensee is complying with the provisions of this act. The
 35 recordkeeping system of a licensee shall be sufficient if he makes the re-
 36 quired information reasonably available. The records need not be kept in the
 37 place of business where payday loans are made if the administrator is given
 38 free access to the records wherever located. The records pertaining to any
 39 loan need not be preserved for more than two (2) years after the due date of
 40 the loan.

41 (2) On or before May 31 of each year, every licensee shall file with the
 42 administrator a composite annual report for the prior calendar year in the
 43 form prescribed by the administrator relating to all payday loans made by
 44 him. Information contained in annual reports shall be subject to disclosure
 45 according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, and may be
 46 published only in composite form.

1 SECTION 51. That Section 28-51-104, Idaho Code, be, and the same is
2 hereby amended to read as follows:

3 28-51-104. DEFINITIONS. For purposes of sections 28-51-104 through
4 28-51-107, Idaho Code:

5 (1) "Agency" means any "public agency" as defined in section ~~9-337~~
6 74-101, Idaho Code.

7 (2) "Breach of the security of the system" means the illegal acquisi-
8 tion of unencrypted computerized data that materially compromises the se-
9 curity, confidentiality, or integrity of personal information for one (1)
10 or more persons maintained by an agency, individual or a commercial entity.
11 Good faith acquisition of personal information by an employee or agent of an
12 agency, individual or a commercial entity for the purposes of the agency, in-
13 dividual or the commercial entity is not a breach of the security of the sys-
14 tem, provided that the personal information is not used or subject to further
15 unauthorized disclosure.

16 (3) "Commercial entity" includes corporation, business trust, estate,
17 trust, partnership, limited partnership, limited liability partnership,
18 limited liability company, association, organization, joint venture and any
19 other legal entity, whether for profit or not-for-profit.

20 (4) "Notice" means:

21 (a) Written notice to the most recent address the agency, individual or
22 commercial entity has in its records;

23 (b) Telephonic notice;

24 (c) Electronic notice, if the notice provided is consistent with the
25 provisions regarding electronic records and signatures set forth in 15
26 U.S.C. section 7001; or

27 (d) Substitute notice, if the agency, individual or the commercial
28 entity required to provide notice demonstrates that the cost of pro-
29 viding notice will exceed twenty-five thousand dollars (\$25,000), or
30 that the number of Idaho residents to be notified exceeds fifty thousand
31 (50,000), or that the agency, individual or the commercial entity does
32 not have sufficient contact information to provide notice. Substitute
33 notice consists of all of the following:

34 (i) E-mail notice if the agency, individual or the commercial en-
35 tity has e-mail addresses for the affected Idaho residents; and

36 (ii) Conspicuous posting of the notice on the website page of the
37 agency, individual or the commercial entity if the agency, indi-
38 vidual or the commercial entity maintains one; and

39 (iii) Notice to major statewide media.

40 (5) "Personal information" means an Idaho resident's first name or
41 first initial and last name in combination with any one (1) or more of the
42 following data elements that relate to the resident, when either the name or
43 the data elements are not encrypted:

44 (a) Social security number;

45 (b) Driver's license number or Idaho identification card number; or

46 (c) Account number, or credit or debit card number, in combination with
47 any required security code, access code, or password that would permit
48 access to a resident's financial account.

1 The term "personal information" does not include publicly available in-
 2 formation that is lawfully made available to the general public from fed-
 3 eral, state, or local government records or widely distributed media.

4 (6) "Primary regulator" of a commercial entity or individual licensed
 5 or chartered by the United States is that commercial entity's or individ-
 6 ual's primary federal regulator, the primary regulator of a commercial en-
 7 tity or individual licensed by the department of finance is the department of
 8 finance, the primary regulator of a commercial entity or individual licensed
 9 by the department of insurance is the department of insurance and, for all
 10 agencies and all other commercial entities or individuals, the primary regu-
 11 lator is the attorney general.

12 SECTION 52. That Section 30-14-607, Idaho Code, be, and the same is
 13 hereby amended to read as follows:

14 30-14-607. PUBLIC RECORDS -- CONFIDENTIALITY. (a) Presumption of pub-
 15 lic records. Except as otherwise provided in subsection (b) of this section,
 16 records obtained by the administrator or filed under this chapter, including
 17 a record contained in or filed with a registration statement, application,
 18 notice filing, or report, are public records and are available for public ex-
 19 amination.

20 (b) Nonpublic records. Records as set forth in section ~~9-340H~~ 74-111,
 21 Idaho Code, are not public records and are not available for public examina-
 22 tion under subsection (a) of this section.

23 (c) Administrator discretion to disclose. If disclosure is for the
 24 purpose of a civil, administrative, or criminal investigation, action, or
 25 proceeding or to a person specified in section 30-14-608(a), Idaho Code, the
 26 administrator may disclose a record obtained in connection with an audit or
 27 inspection under section 30-14-411(d), Idaho Code, or a record obtained in
 28 connection with an investigation under section 30-14-602, Idaho Code.

29 SECTION 53. That Section 31-874, Idaho Code, be, and the same is hereby
 30 amended to read as follows:

31 31-874. PROCEEDINGS AND RECORDS OF MEDICAL INDIGENTS. All proceedings
 32 and records related to medical indigency pursuant to the provisions of sec-
 33 tion 31-873, Idaho Code, and chapters 34 and 35, title 31, Idaho Code, shall
 34 be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74,
 35 Idaho Code, and shall not be subject to the provisions of ~~sections 67-2340~~
 36 ~~through 67-2347~~ chapter 2, title 74, Idaho Code.

37 SECTION 54. That Section 31-1415, Idaho Code, be, and the same is hereby
 38 amended to read as follows:

39 31-1415. ORGANIZATION OF BOARD -- MEETINGS -- OFFICERS -- OFFICIAL
 40 BONDS. Immediately after qualifying, the board of fire protection commis-
 41 sioners shall meet and organize as a board, and at that time, and whenever
 42 thereafter vacancies in the respective offices may occur, they shall elect
 43 a president from their number, and shall appoint a secretary and treasurer
 44 who may also be from their number, all of whom shall hold office during the
 45 pleasure of the board, or for terms fixed by the board. The offices of sec-

1 retary and treasurer may be filled by the same person. Certified copies of
 2 all such appointments, under the hand of each of the commissioners, shall be
 3 forthwith filed with the clerk of the board of county commissioners and with
 4 the tax collector of the county.

5 As soon as practicable after the organization of the first board of fire
 6 protection commissioners, and thereafter when deemed expedient or neces-
 7 sary, such board shall designate a day and hour on which regular meetings
 8 shall be held and a place for the holding thereof, which shall be within the
 9 district. Regular meetings shall be held at least quarterly. The minutes
 10 of all meetings must show what bills are submitted, considered, allowed or
 11 rejected. The secretary shall make a list of all bills presented, showing
 12 to whom payable, for what service or material, when and where used, amount
 13 claimed, allowed or disallowed. Such list shall be acted on by the board.
 14 All meetings of the board must be public, and a majority shall constitute a
 15 quorum for the transaction of business. All fire protection districts shall
 16 meet the financial audit filing requirements as provided in section 67-450B,
 17 Idaho Code. All meetings of fire protection boards shall be noticed and run
 18 in accordance with the open meeting law provided for in ~~sections 67-2340~~
 19 ~~through 67-2347~~ chapter 2, title 74, Idaho Code, inclusive. All records of
 20 fire protection districts shall be available to the public in accordance
 21 with the provisions of public records law as provided for in ~~chapter 3, title~~
 22 ~~9~~ chapter 1, title 74, Idaho Code.

23 The officers of the district shall take and file with the secretary, an
 24 oath for faithful performance of the duties of the respective offices. The
 25 treasurer shall on his appointment execute and file with the secretary an of-
 26 ficial bond in compliance with section 41-2604, Idaho Code, in such an amount
 27 as may be fixed by the fire protection board but in no case less than ten thou-
 28 sand dollars (\$10,000).

29 SECTION 55. That Section 31-3418, Idaho Code, be, and the same is hereby
 30 amended to read as follows:

31 31-3418. CONFIDENTIALITY -- PROCEEDINGS AND RECORDS OF INDIGENTS. All
 32 proceedings and records related to indigency, pursuant to chapter 34, title
 33 31, Idaho Code, shall be exempt from disclosure pursuant to ~~chapter 3, title~~
 34 ~~9~~ chapter 1, title 74, Idaho Code.

35 SECTION 56. That Section 31-3551, Idaho Code, be, and the same is hereby
 36 amended to read as follows:

37 31-3551. ADVISORY PANEL FOR PRELITIGATION CONSIDERATION OF INDIGENT
 38 RESOURCE ELIGIBILITY CLAIMS -- PROCEDURE. The counties in the state of Idaho
 39 and the health providers furnishing care to eligible medically indigent
 40 persons, as defined in section 31-3502, Idaho Code, are directed to coop-
 41 erate in providing an advisory panel in the nature of a special civil grand
 42 jury and procedure for prelitigation consideration of claims arising out
 43 of contested resource availability of persons applying for indigent relief
 44 under the provisions of chapter 35, title 31, Idaho Code, which proceedings
 45 shall be informal and nonbinding, but nevertheless compulsory as a condition
 46 precedent to litigation. Proceedings conducted or maintained under the au-
 47 thority of this chapter shall be subject to disclosure according to ~~chapter~~

1 ~~3, title 9~~ chapter 1, title 74, Idaho Code. Formal rules of evidence shall
2 not apply and all such proceedings shall be expeditious and informal. The
3 panel, thus created, will render opinions where the resource eligibility of
4 applicants, as herein described, has been contested.

5 SECTION 57. That Section 31-4814, Idaho Code, be, and the same is hereby
6 amended to read as follows:

7 31-4814. CONFIDENTIAL AND PROPRIETARY DATA. All data submitted to
8 governing boards by wireless carriers deemed by such carriers as confiden-
9 tial and proprietary shall be deemed to be trade secrets pursuant to ~~chapter~~
10 ~~3, title 9~~ chapter 1, title 74, Idaho Code.

11 SECTION 58. That Section 31-4904, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 31-4904. DISTRICT BOARD -- QUORUM -- MEETINGS. A district shall be
14 governed by a board of directors consisting of not less than three (3) mem-
15 bers, hereinafter referred to as the district board, which shall be vested
16 with the authority, control and supervision of the district. The district
17 board shall consist of one (1) commissioner from each participating county,
18 appointed by the commissioners of the participating county. If the district
19 includes only two (2) counties, the commissioners of the two (2) partici-
20 pating counties shall jointly appoint a third member of the district board.
21 Ex officio, nonvoting members may be appointed by the district board. The
22 district board shall designate one (1) of its members as president, shall
23 appoint a treasurer, who need not be a member of the district board, and
24 shall establish such other officers as it deems necessary. The district
25 board shall adopt bylaws for its own operation and establish such regular
26 meeting dates and times as it shall deem necessary. A majority of the voting
27 members of the district board shall constitute a quorum, and a majority of
28 the quorum present shall be sufficient to take any action. A member of the
29 district board shall serve for a two (2) year term and may be reappointed by
30 the commissioners appointing such member. Any member may be removed by the
31 commissioners who originally appointed such member, at any time and for any
32 reason. Any vacancy shall be filled by the original appointing commission-
33 ers. Members of a district board shall serve without compensation, but may
34 be reimbursed for their actual expenses incurred in attending board meetings
35 or conducting other district business under such rules as the district board
36 may adopt. Regular and special meetings of a district board shall be con-
37 ducted in compliance with ~~sections 67-2340 through 67-2347~~ chapter 2, title
38 74, Idaho Code.

39 SECTION 59. That Section 31-5104, Idaho Code, be, and the same is hereby
40 amended to read as follows:

41 31-5104. STUDY COMMISSION -- ORGANIZATION -- MEETINGS -- CONDUCT OF
42 BUSINESS. (1) The commission shall meet within thirty (30) days of its ap-
43 pointment and shall organize by electing from its members a chairman, a vice-
44 chairman, and a clerk-secretary.

1 (2) Meetings of the study commission shall be held upon the call of the
2 chairman, the vice-chairman in the absence or inability of the chairman, or
3 a majority of the members. A majority of the members of the study commission
4 constitutes a quorum for the transaction of business.

5 (3) All meetings, hearings and deliberations of the commission shall
6 be subject to the provisions of ~~sections 67-2340 through 67-2347~~ chapter 2,
7 title 74, Idaho Code.

8 (4) The commission may prepare a proposed budget for its operation
9 which shall be submitted to the governing body for approval.

10 (5) The commission may adopt rules governing its own organization and
11 procedure.

12 (6) The commission shall keep written records of its proceedings and
13 appropriate financial records. All such records shall be open for public in-
14 spection at the offices of the study commission during regular office hours.

15 (7) Subject to the approval of the governing body, the commission may
16 employ and fix the compensation and duties of necessary research, clerical,
17 legal and other staff.

18 (8) Upon the request of the chairman of the study commission, the offi-
19 cers and employees of state agencies, other counties and other units of local
20 government shall furnish or make available to the commission such informa-
21 tion as may be necessary for carrying out the commission's function.

22 (9) The commission may apply for and accept available private, state
23 and federal funds and may accept donations from any source.

24 (10) A study commission may establish advisory boards and committees,
25 including on them persons who are not members of the study commission.

26 (11) The governing body shall provide the commission with suitable
27 space and access to county facilities for holding public hearings, may con-
28 tribute clerical and other assistance to the commission, and shall provide
29 the members and staff of the commission with information and assistance nec-
30 essary to conduct a complete study of county government.

31 SECTION 60. That Section 33-357, Idaho Code, be, and the same is hereby
32 amended to read as follows:

33 33-357. CREATION OF INTERNET BASED EXPENDITURE WEBSITE. (1) As used
34 in this section, unless otherwise required:

35 (a) "Education provider" means:

36 (i) A school district, including a specially chartered district
37 organized and existing pursuant to law;

38 (ii) A cooperative services agency or intermediate school dis-
39 trict;

40 (iii) A public charter school authorized pursuant to state law;

41 (iv) A publicly funded governmental entity established by the
42 state for the express purpose of providing online courses.

43 (b) "Entity" means a corporation, association, union, limited liabil-
44 ity company, limited liability partnership, grantee, contractor, local
45 government or other legal entity, including a nonprofit corporation or
46 an employee of the education provider.

47 (c) "Public record" shall have the same meaning as set forth in ~~chapter~~
48 ~~3, title 9~~ chapter 1, title 74, Idaho Code.

1 (2) (a) No later than December 1, 2011, each education provider shall
 2 develop and maintain a publicly available website where the education
 3 provider's expenditures are posted in a nonsearchable PDF format, a
 4 searchable PDF format, a spreadsheet or in a database format.

5 (b) The internet based website shall include the following data con-
 6 cerning all expenditures made by the education provider:

7 (i) The name and location or address of the entity receiving mon-
 8 eys;

9 (ii) The amount of expended moneys;

10 (iii) The date of the expenditure;

11 (iv) A description of the purpose of the expenditure, unless the
 12 expenditure is self-describing;

13 (v) Supporting contracts and performance reports upon which the
 14 expenditure is related when these documents already exist;

15 (vi) To the extent possible, a unique identifier for each expendi-
 16 ture;

17 (vii) The annual budget approved by the education provider's gov-
 18 erning board, to be posted within thirty (30) days after its ap-
 19 proval; and

20 (viii) Any current master labor agreements approved by the educa-
 21 tion provider's governing board.

22 (c) The expenditure data shall be provided in an open structured data
 23 format that may be downloaded by the user.

24 (d) The internet based website shall contain only information that is a
 25 public record or that is not confidential or otherwise exempt from pub-
 26 lic disclosure pursuant to state or federal law.

27 (3) The education provider shall:

28 (a) Update the expenditures contained on the internet based website at
 29 least monthly;

30 (b) Archive all expenditures, which shall remain accessible and on the
 31 internet based website for a number of years, consistent with state law
 32 regarding keeping and retention of records;

33 (c) Make the internet based website easily accessible from the main
 34 page of the education provider's website; and

35 (d) The website shall include those records beginning on the effective
 36 date of this act on July 1, 2011, and all data prior to that date shall be
 37 available by way of a public records request.

38 SECTION 61. That Section 33-510, Idaho Code, be, and the same is hereby
 39 amended to read as follows:

40 33-510. ANNUAL MEETINGS -- REGULAR MEETINGS -- BOARDS OF TRUSTEES. The
 41 annual meeting of each school district shall be on the date of its regular
 42 July meeting in each year. Notice of the annual meeting of elementary school
 43 districts shall be given as provided in section 33-402, Idaho Code, but one
 44 (1) publication shall suffice.

45 Regular meetings of each board of school district trustees shall be held
 46 monthly, on a uniform day of a uniform week as determined at the annual meet-
 47 ing. Special meetings may be called by the chairman or by any two (2) members
 48 of the board and held at any time. If the time and place of special meetings
 49 shall not have been determined at a meeting of the board with all members be-

1 ing present, then notice of the time and place shall be given to each member
2 and announced by written notice conspicuously posted at the school district
3 office and at least two (2) or more public buildings within the school dis-
4 trict not less than twenty-four (24) hours before such special meeting is to
5 be convened.

6 A quorum for the transaction of business of the board of trustees shall
7 consist of a majority of the members of the board. Unless otherwise provided
8 by law, all questions shall be determined by a majority of the vote cast. The
9 chairman of the board may vote in all cases.

10 All meetings shall conform to the provisions of ~~section 67-2340 through~~
11 ~~section 67-2345~~ chapter 2, title 74, Idaho Code.

12 SECTION 62. That Section 33-514, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 33-514. ISSUANCE OF ANNUAL CONTRACTS -- SUPPORT PROGRAMS -- CATE-
15 GORIES OF CONTRACTS -- OPTIONAL PLACEMENT. (1) The board of trustees shall
16 establish criteria and procedures for the supervision and evaluation of
17 certificated employees who are not employed on a renewable contract, as pro-
18 vided for in section 33-515, Idaho Code.

19 (2) There shall be three (3) categories of annual contracts available
20 to local school districts under which to employ certificated personnel:

21 (a) A category 1 contract is a limited one-year contract as provided in
22 section 33-514A, Idaho Code.

23 (b) A category 2 contract is for certificated personnel in the first and
24 second years of continuous employment with the same school district.
25 Upon the decision by a local school board not to reemploy the person for
26 the following year, the certificated employee shall be provided a writ-
27 ten statement of reasons for non-reemployment by no later than May 25.
28 No property rights shall attach to a category 2 contract and therefore
29 the employee shall not be entitled to a review by the local board of the
30 reasons or decision not to reemploy.

31 (c) A category 3 contract is for certificated personnel during the
32 third year of continuous employment by the same school district. Dis-
33 trict procedures shall require at least one (1) evaluation prior to the
34 beginning of the secondsemester of the school year and the results of
35 any such evaluation shall be made a matter of record in the employee's
36 personnel file. When any such employee's work is found to be unsatis-
37 factory a defined period of probation shall be established by the board,
38 but in no case shall a probationary period be less than eight (8) weeks.
39 After the probationary period, action shall be taken by the board as
40 to whether the employee is to be retained, immediately discharged,
41 discharged upon termination of the current contract or reemployed at
42 the end of the contract term under a continued probationary status.
43 Notwithstanding the provisions of sections ~~67-2344~~ 74-205 and ~~67-2345~~
44 74-206, Idaho Code, a decision to place certificated personnel on pro-
45 bationary status may be made in executive session and the employee shall
46 not be named in the minutes of the meeting. A record of the decision
47 shall be placed in the employee's personnel file. This procedure shall
48 not preclude recognition of unsatisfactory work at a subsequent evalu-
49 ation and the establishment of a reasonable period of probation. In all

1 instances, the employee shall be duly notified in writing of the areas
2 of work which are deficient, including the conditions of probation.
3 Each such certificated employee on a category 3 contract shall be given
4 notice, in writing, whether he or she will be reemployed for the next
5 ensuing year. Such notice shall be given by the board of trustees no
6 later than the twenty-fifth day of May of each such year. If the board
7 of trustees has decided not to reemploy the certificated employee, then
8 the notice must contain a statement of reasons for such decision and the
9 employee shall, upon request, be given the opportunity for an informal
10 review of such decision by the board of trustees. The parameters of an
11 informal review shall be determined by the local board.

12 (3) School districts hiring an employee who has been on renewable con-
13 tract status with another Idaho district or has out-of-state experience
14 which would otherwise qualify the certificated employee for renewable con-
15 tract status in Idaho, shall have the option to immediately grant renewable
16 contract status, or to place the employee on a category 3 annual contract.
17 Such employment on a category 3 contract under the provisions of this subsec-
18 tion may be for one (1), two (2) or three (3) years.

19 (4) There shall be a minimum of two (2) written evaluations in each of
20 the annual contract years of employment, and at least one (1) evaluation
21 shall be completed before January 1 of each year. The provisions of this
22 subsection (4) shall not apply to employees on a category 1 contract.

23 SECTION 63. That Section 33-515, Idaho Code, be, and the same is hereby
24 amended to read as follows:

25 33-515. ISSUANCE OF RENEWABLE CONTRACTS. (1) During the third full
26 year of continuous employment by the same school district, including any
27 specially chartered district, each certificated employee named in subsec-
28 tion (16) of section 33-1001, Idaho Code, and each school nurse and school
29 librarian shall be evaluated for a renewable contract and shall, upon having
30 been offered a contract for the next ensuing year, having given notice of
31 acceptance of renewal and upon signing a contract for a fourth full year, be
32 placed on a renewable contract status with said school district subject to
33 the provisions included in this chapter.

34 (2) After the third full year of employment and at least once annu-
35 ally, the performance of each such certificated employee, school nurse, or
36 school librarian shall be evaluated according to criteria and procedures
37 established by the board of trustees in accordance with general guidelines
38 approved by the state board of education. Except as otherwise provided, that
39 person shall have the right to automatic renewal of contract by giving no-
40 tice, in writing, of acceptance of renewal. Such notice shall be given to the
41 board of trustees of the school district then employing such person not later
42 than the first day of June preceding the expiration of the term of the cur-
43 rent contract. Except as otherwise provided by this paragraph, the board of
44 trustees shall notify each person entitled to be employed on a renewable con-
45 tract of the requirement that such person must give the notice hereinabove
46 and that failure to do so may be interpreted by the board as a declination of
47 the right to automatic renewal or the offer of another contract. Such noti-
48 fication shall be made, in writing, not later than the fifteenth day of May,
49 in each year, except to those persons to whom the board, prior to said date,

1 has sent proposed contracts for the next ensuing year, or to whom the board
2 has given the notice required by this section.

3 (3) Any contract automatically renewed under the provisions of this
4 section shall be for the same length as the term stated in the current con-
5 tract and at a salary no lower than that specified therein, to which shall
6 be added such increments as may be determined by the statutory or regulatory
7 rights of such employee by reason of training, service, or performance, ex-
8 cept where a board of trustees has declared a financial emergency pursuant
9 to section 33-522, Idaho Code.

10 (4) Nothing in this section shall prevent the board of trustees from of-
11 fering a renewed contract increasing the salary of any certificated person,
12 or from reassigning an administrative employee to a nonadministrative posi-
13 tion with appropriate reduction of salary from the preexisting salary level.
14 In the event the board of trustees reassigns an administrative employee to a
15 nonadministrative position, the board shall give written notice to the em-
16 ployee which contains a statement of the reasons for the reassignment. The
17 employee, upon written request to the board, shall be entitled to an informal
18 review of that decision. The process and procedure for the informal review
19 shall be determined by the local board of trustees.

20 (5) Before a board of trustees can determine not to renew for reasons of
21 an unsatisfactory report of the performance of any certificated person whose
22 contract would otherwise be automatically renewed, or to renew the contract
23 of any such person at a reduced salary, such person shall be entitled to a
24 reasonable period of probation. This period of probation shall be preceded
25 by a written notice from the board of trustees with reasons for such proba-
26 tionary period and with provisions for adequate supervision and evaluation
27 of the person's performance during the probationary period. Such period of
28 probation shall not affect the person's renewable contract status. Consid-
29 eration of probationary status for certificated personnel is consideration
30 of the status of an employee within the meaning of section ~~67-2345~~ 74-206,
31 Idaho Code, and may be held in executive session. If the consideration re-
32 sults in probationary status, the individual on probation shall not be named
33 in the minutes of the meeting. A record of the decision shall be placed in the
34 teacher's personnel file.

35 (6) If the board of trustees takes action to immediately discharge or
36 discharge upon termination of the current contract a certificated person
37 whose contract would otherwise be automatically renewed, or to renew the
38 contract of any such person at a reduced salary, the action of the board
39 shall be consistent with the procedures specified in section 33-513 5.,
40 Idaho Code, and furthermore, the board shall notify the employee in writing
41 whether there is just and reasonable cause not to renew the contract or to
42 reduce the salary of the affected employee, and if so, what reasons it relied
43 upon in that determination.

44 (7) If the board of trustees takes action after the declaration of a fi-
45 nancial emergency pursuant to section 33-522, Idaho Code, and such action is
46 directed at more than one (1) certificated employee and, if mutually agreed
47 to by both parties, a single informal review shall be conducted. Without
48 mutual consent of both parties, the board of trustees shall use the follow-
49 ing procedure to conduct a single due process hearing within sixty-seven

1 (67) days of the declaration of financial emergency pursuant to section
2 33-522(2), Idaho Code, or on or before June 22, whichever shall occur first:

3 (a) The superintendent or any other duly authorized administrative of-
4 ficer of the school district may recommend the change in the length of
5 the term stated in the current contract or reduce the salary of any cer-
6 tificated employee by filing with the board of trustees written notice
7 specifying the purported reasons for such changes.

8 (b) Upon receipt of such notice, the board of trustees, acting through
9 its duly authorized administrative official, shall give the affected
10 employees written notice of the reductions and the recommendation of
11 the change in the length of the term stated in the current contract or
12 the reduction of salary, along with written notice of a hearing be-
13 fore the board of trustees prior to any determination by the board of
14 trustees.

15 (c) The hearing shall be scheduled to take place not less than six (6)
16 days nor more than fourteen (14) days after receipt of the notice by the
17 employees. The date provided for the hearing may be changed by mutual
18 consent.

19 (d) The hearing shall be open to the public.

20 (e) All testimony at the hearing shall be given under oath or affirma-
21 tion. Any member of the board, or the clerk of the board of trustees, may
22 administer oaths to witnesses or affirmations by witnesses.

23 (f) The employees may be represented by legal counsel and/or by a repre-
24 sentative of a local or state education association.

25 (g) The chairman of the board of trustees or the designee of the chair-
26 man shall conduct the hearing.

27 (h) The board of trustees shall cause an electronic record of the hear-
28 ing to be made or shall employ a competent reporter to take stenographic
29 or stenotype notes of all the testimony at the hearing. A transcript of
30 the hearing shall be provided at cost by the board of trustees upon re-
31 quest of the employee.

32 (i) At the hearing the superintendent or other duly authorized admin-
33 istrative officer shall present evidence to substantiate the reduction
34 contained in such notice.

35 (j) The employees may produce evidence to refute the reduction. Any
36 witness presented by the superintendent or by the employees shall be
37 subject to cross-examination. The board of trustees may also examine
38 witnesses and be represented by counsel.

39 (k) The affected employees may file written briefs and arguments with
40 the board of trustees within three (3) days after the close of the hear-
41 ing or such other time as may be agreed upon by the affected employees
42 and the board of trustees.

43 (l) Within seven (7) days following the close of the hearing, the board
44 of trustees shall determine and, acting through its duly authorized ad-
45 ministrative official, shall notify the employees in writing whether
46 the evidence presented at the hearing established the need for the ac-
47 tion taken.

48 The due process hearing pursuant to this subsection (7) shall not be required
49 if the board of trustees and the local education association reach an agree-
50 ment on issues agreed upon pursuant to section 33-522(3), Idaho Code.

1 (8) If the board of trustees, for reasons other than unsatisfactory
2 service, for the ensuing contract year, determines to change the length of
3 the term stated in the current contract, reduce the salary or not renew the
4 contract of a certificated person whose contract would otherwise be automat-
5 ically renewed, nothing herein shall require a probationary period.

6 SECTION 64. That Section 33-1211, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 33-1211. PRIVILEGED COMMUNICATION OR PUBLICATION. Any publication or
9 communication made by any member of the state board of education, or by any
10 person delegated by the said state board to hold or conduct any hearing, or by
11 any certification officer of the state board of education, in the proper dis-
12 charge of any official duty imposed under section 33-1208 or 33-1209, Idaho
13 Code, shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter
14 1, title 74, Idaho Code.

15 SECTION 65. That Section 33-1273A, Idaho Code, be, and the same is
16 hereby amended to read as follows:

17 33-1273A. NEGOTIATIONS IN OPEN SESSION. (1) Any other provision of
18 law notwithstanding, including any provisions to the contrary in section
19 ~~67-2345~~ 74-206, Idaho Code, all negotiations pursuant to this act shall be in
20 open session and shall be open and available for the public to attend.

21 (2) All documentation exchanged between the parties during negoti-
22 ations, including all offers, counteroffers and meeting minutes shall be
23 subject to public writings disclosure laws.

24 (3) Any other provision of law notwithstanding, including any other
25 provisions to the contrary in sections 33-402 and ~~67-2343~~ 74-204, Idaho
26 Code, the district shall post notice of all negotiation sessions at the ear-
27 liest possible time practicable. This shall be done by the district immedi-
28 ately posting notice of the negotiation session on the front page of its dis-
29 trict website. If time permits, the district shall also post notice within
30 twenty-four (24) hours at its regular meeting physical posting locations.

31 SECTION 66. That Section 33-2505A, Idaho Code, be, and the same is
32 hereby amended to read as follows:

33 33-2505A. DEFINITIONS. As used in this chapter:

34 (1) "Digital repository" means electronic publications stored and ac-
35 cessible to the public online in a secure digital environment with redundant
36 backup.

37 (2) "Format" includes any media used for state publications including,
38 but not limited to, electronic, print, audio, visual and microform.

39 (3) "State agency" includes every constitutional and statutory office,
40 officer, department, division, bureau, board, commission and agency of the
41 state and, where applicable, all subdivisions of each.

42 (4) "State publication" means any information, regardless of format,
43 published by a state agency and intended for distribution to the public.
44 State publication does not include correspondence, internal confidential
45 publications, office memoranda, university press publications, items de-

1 tailed by ~~sections 9-340A through 9-340H~~ chapter 1, title 74, Idaho Code, or
2 other information excluded or exempted by rule promulgated by the board of
3 library commissioners.

4 SECTION 67. That Section 33-2606, Idaho Code, be, and the same is hereby
5 amended to read as follows:

6 33-2606. BOARD OF TRUSTEES -- MEETINGS. The board of trustees shall
7 meet at least once in each quarter unless required by city ordinance to meet
8 more frequently. One (1) of the meetings shall be designated as the annual
9 meeting. The purposes of the annual meeting are to elect the officers of the
10 board, to establish a regular meeting date, and to review, amend, repeal or
11 adopt bylaws, policies and procedures. Special meetings may be held from
12 time to time as the board may determine, but written notice thereof shall be
13 given to the members at least two (2) days prior to the day of the meeting.
14 A quorum shall consist of three (3) voting members, but a smaller number may
15 adjourn. All library board meetings are to be held pursuant to the open meet-
16 ing law, ~~sections 67-2340 through 67-2347~~ chapter 2, title 74, Idaho Code.

17 SECTION 68. That Section 33-2719, Idaho Code, be, and the same is hereby
18 amended to read as follows:

19 33-2719. BOARD OF TRUSTEES -- MEETINGS. The annual meeting of a li-
20 brary district board shall be on the date of its first regular meeting
21 following each trustee election. The purposes of the annual meeting are to
22 administer the oath of office to the newly elected or re-elected trustee or
23 trustees, to elect the officers of the board, to establish a regular meeting
24 date, and to review, amend, repeal or adopt bylaws, policies and proce-
25 dures. The regular meetings of the board of trustees of an administrative
26 only district shall be held at least once in each quarter. All other library
27 district boards shall meet at least once every two (2) months at a uniform day
28 of the month as the board of trustees shall determine at its annual meeting.
29 Special or adjourned meetings may be held from time to time as the board may
30 determine, but written notice thereof shall be given to the members at least
31 two (2) days prior to the day of the meeting. A quorum shall consist of three
32 (3) members, but a smaller number may adjourn. All meetings shall be held
33 under the provisions of ~~section 67-2340 through 67-2347~~ chapter 2, title 74,
34 Idaho Code. It is the duty of each trustee to attend all meetings of the board
35 of trustees.

36 SECTION 69. That Section 33-3407, Idaho Code, be, and the same is hereby
37 amended to read as follows:

38 33-3407. GOVERNMENTAL ENTITY -- LIABILITY -- INSURANCE. (1) The Idaho
39 bureau of educational services for the deaf and the blind, as provided for in
40 this chapter, is not a single department of state government unto itself, nor
41 is it a part of any of the twenty (20) departments of state government autho-
42 rized by section 20, article IV, of the constitution of the state of Idaho,
43 or of the departments provided for in section 67-2402, Idaho Code. It is leg-
44 islative intent that the Idaho bureau of educational services for the deaf
45 and the blind operate and be recognized not as a state agency or department,

1 but as a governmental entity whose creation has been authorized by the state,
2 much in the manner as other single purpose districts. For the purposes of
3 section 59-1302(15), Idaho Code, the Idaho bureau of educational services
4 for the deaf and the blind created pursuant to this chapter shall be deemed a
5 governmental entity. Pursuant to the provisions of section 63-36220, Idaho
6 Code, sales to or purchases by the Idaho bureau of educational services for
7 the deaf and the blind are exempt from payment of the sales and use tax. The
8 Idaho bureau of educational services for the deaf and the blind, its employ-
9 ees and its board of directors are subject to the following provisions in
10 the same manner as a traditional public school and the board of trustees of
11 a school district:

12 (a) Sections 18-1351 through 18-1362, Idaho Code, on bribery and cor-
13 rupt influence, except as provided by section 33-5204A(2), Idaho Code;

14 (b) ~~Chapter 2, title 59~~ Chapter 5, title 74, Idaho Code, on prohibitions
15 against contracts with officers;

16 (c) ~~Chapter 7, title 59~~ Chapter 4, title 74, Idaho Code, on ethics in
17 government;

18 (d) ~~Chapter 23, title 67~~ Chapter 2, title 74, Idaho Code, on open public
19 meetings; and

20 (e) ~~Chapter 3, title 9~~ Chapter 1, title 74, Idaho Code, on disclosure of
21 public records.

22 (2) The Idaho bureau of educational services for the deaf and the blind,
23 its employees and its board of directors are subject to the following provi-
24 sions:

25 (a) Section 33-1216, Idaho Code, on sick and other leave, or the laws,
26 rules and policies of the state of Idaho for sick and other leave as
27 provided for in chapter 53, title 67, Idaho Code, as determined by the
28 board;

29 (b) Section 33-1217, Idaho Code, on accumulation of unused sick leave,
30 or the laws, rules and policies of the state of Idaho for accumulation
31 of unused sick leave as provided for in section 67-5333, Idaho Code, as
32 determined by the board;

33 (c) Section 33-1218, Idaho Code, on sick leave in excess of statutory
34 minimum amounts, or the laws, rules and policies of the state of Idaho
35 for sick leave in excess of statutory minimum amounts as provided for in
36 section 67-5333, Idaho Code, as determined by the board; and

37 (d) Section 33-1228, Idaho Code, on severance allowance at retirement,
38 or the laws, rules and policies of the state of Idaho for severance al-
39 lowance at retirement as provided for in section 67-5333, Idaho Code, as
40 determined by the board.

41 (3) The Idaho bureau of educational services for the deaf and the blind
42 may sue or be sued, purchase, receive, hold and convey real and personal
43 property for school purposes, and its employees, directors and officers
44 shall enjoy the same immunities as employees, directors and officers of tra-
45 ditional public school districts and other public schools, including those
46 provided by chapter 9, title 6, Idaho Code.

47 (4) The Idaho bureau of educational services for the deaf and the blind
48 shall be considered a state department for purposes of risk management and
49 group insurance pursuant to chapter 57, title 67, Idaho Code, and the depart-
50 ment of administration shall treat the bureau as such.

1 (5) It shall be unlawful for:

2 (a) Any director to have pecuniary interest directly or indirectly
3 in any contract or other transaction pertaining to the maintenance or
4 conduct of the Idaho bureau of educational services for the deaf and the
5 blind, or to accept any reward or compensation for services rendered as
6 a director except as may be otherwise provided in this subsection. The
7 board of directors of the Idaho bureau of educational services for the
8 deaf and the blind may accept and award contracts involving the Idaho
9 bureau of educational services for the deaf and the blind to businesses
10 in which the director or a person related to him by blood or marriage
11 within the second degree of consanguinity has a direct or indirect
12 interest, provided that the procedures set forth in section 18-1361
13 or 18-1361A, Idaho Code, are followed. The receiving, soliciting or
14 acceptance of moneys of the Idaho bureau of educational services for
15 the deaf and the blind for deposit in any bank or trust company, or the
16 lending of moneys by any bank or trust company to the Idaho bureau of ed-
17 ucational services for the deaf and the blind, shall not be deemed to be
18 a contract pertaining to the maintenance or conduct of the Idaho bureau
19 of educational services for the deaf and the blind within the meaning of
20 this section; nor shall the payment of compensation by the Idaho bureau
21 of educational services for the deaf and the blind board of directors
22 to any bank or trust company for services rendered in the transaction
23 of any banking business with the Idaho bureau of educational services
24 for the deaf and the blind board of directors be deemed the payment of
25 any reward or compensation to any officer or director of any such bank or
26 trust company within the meaning of this section.

27 (b) The board of directors of the Idaho bureau of educational services
28 for the deaf and the blind to enter into or execute any contract with the
29 spouse of any member of such board, the terms of which said contract re-
30 quire, or shall require, the payment or delivery of any Idaho bureau of
31 educational services for the deaf and the blind funds, moneys or prop-
32 erty to such spouse, except as provided in section 18-1361 or 18-1361A,
33 Idaho Code.

34 (6) When any relative of any director, or relative of the spouse of a
35 director related by affinity or consanguinity within the second degree, is
36 to be considered for employment in the Idaho bureau of educational services
37 for the deaf and the blind, such director shall abstain from voting in the
38 election of such relative, and shall be absent from the meeting while such
39 employment is being considered and determined.

40 SECTION 70. That Section 33-5204, Idaho Code, be, and the same is hereby
41 amended to read as follows:

42 33-5204. NONPROFIT CORPORATION -- LIABILITY -- INSURANCE. (1) A pub-
43 lic charter school shall be organized and managed under the Idaho nonprofit
44 corporation act. The board of directors of a public charter school shall
45 be deemed public agents authorized by a public school district, the pub-
46 lic charter school commission, or the state board of education to control
47 the public charter school, but shall function independently of any school
48 board of trustees in any school district in which the public charter school
49 is located or independently of the public charter school commission, ex-

1 cept as provided in the charter. For the purposes of section 59-1302(15),
 2 Idaho Code, a public charter school created pursuant to this chapter shall
 3 be deemed a governmental entity. Pursuant to the provisions of section
 4 63-36220, Idaho Code, sales to or purchases by a public charter school are
 5 exempt from payment of the sales and use tax. A public charter school and the
 6 board of directors of a public charter school are subject to the provisions
 7 of:

8 (a) Sections 18-1351 through 18-1362, Idaho Code, on bribery and cor-
 9 rupt influence, except as provided by section 33-5204A(2), Idaho Code;

10 (b) ~~Chapter 2, title 59~~ Chapter 5, title 74, Idaho Code, on prohibitions
 11 against contracts with officers;

12 (c) ~~Chapter 7, title 59~~ Chapter 4, title 74, Idaho Code, on ethics in
 13 government;

14 (d) ~~Chapter 23, title 67~~ Chapter 2, title 74, Idaho Code, on open public
 15 meetings; and

16 (e) ~~Chapter 3, title 9~~ Chapter 1, title 74, Idaho Code, on disclosure of
 17 public records;

18 in the same manner that a traditional public school and the board of school
 19 trustees of a school district are subject to those provisions.

20 (2) A public charter school may sue or be sued, purchase, receive, hold
 21 and convey real and personal property for school purposes, and borrow money
 22 for such purposes, to the same extent and on the same conditions as a tra-
 23 ditional public school district, and its employees, directors and officers
 24 shall enjoy the same immunities as employees, directors and officers of tra-
 25 ditional public school districts and other public schools, including those
 26 provided by chapter 9, title 6, Idaho Code. The authorized chartering entity
 27 that approves a public school charter shall have no liability for the acts,
 28 omissions, debts or other obligations of a public charter school, except as
 29 may be provided in the charter. A local public school district shall have
 30 no liability for the acts, omissions, debts or other obligations of a public
 31 charter school located in its district that has been approved by an autho-
 32 rized chartering entity other than the board of trustees of the local school
 33 district.

34 (3) Nothing in this chapter shall prevent the board of directors of a
 35 public charter school, operating as a nonprofit corporation, from borrow-
 36 ing money to finance the purchase or lease of school building facilities,
 37 equipment and furnishings of those school building facilities. Subject to
 38 the terms of a contractual agreement between the board and a lender, noth-
 39 ing herein shall prevent the board from using the facility, its equipment and
 40 furnishings as collateral for the loan.

41 (4) Public charter schools shall secure insurance for liability and
 42 property loss.

43 (5) It shall be unlawful for:

44 (a) Any director to have pecuniary interest, directly or indirectly,
 45 in any contract or other transaction pertaining to the maintenance or
 46 conduct of the authorized chartering entity and charter or to accept
 47 any reward or compensation for services rendered as a director except
 48 as may be otherwise provided in this subsection. The board of directors
 49 of a public charter school may accept and award contracts involving the
 50 public charter school to businesses in which the director or a person

1 related to him by blood or marriage within the second degree has a direct
2 or indirect interest, provided that the procedures set forth in section
3 18-1361 or 18-1361A, Idaho Code, are followed. The receiving, solicit-
4 ing or acceptance of moneys of a public charter school for deposit in any
5 bank or trust company, or the lending of moneys by any bank or trust com-
6 pany to any public charter school, shall not be deemed to be a contract
7 pertaining to the maintenance or conduct of a public charter school and
8 authorized chartering entity within the meaning of this section; nor
9 shall the payment by any public charter school board of directors of
10 compensation to any bank or trust company for services rendered in the
11 transaction of any banking business with such public charter school
12 board of directors be deemed the payment of any reward or compensation
13 to any officer or director of any such bank or trust company within the
14 meaning of this section.

15 (b) The board of directors of any public charter school to enter into
16 or execute any contract with the spouse of any member of such board, the
17 terms of which said contract require, or will require, the payment or
18 delivery of any public charter school funds, moneys or property to such
19 spouse, except as provided in paragraph (c) of this subsection or in
20 section 18-1361 or 18-1361A, Idaho Code.

21 (c) No spouse of any director may be employed by a public charter school
22 physically located within the boundaries of a school district with a
23 fall student enrollment population of greater than one thousand two
24 hundred (1,200) in the prior school year. For public charter schools
25 physically located within the boundaries of a school district with a
26 fall student enrollment population of one thousand two hundred (1,200)
27 or less in the prior school year, such spouse may be employed in a non-
28 administrative position for a school year if each of the following
29 conditions has been met:

30 (i) The position has been listed as open for application on the
31 public charter school website or in a local newspaper, whichever
32 is consistent with the school's current practice, and the position
33 shall be listed for at least sixty (60) days, unless the opening
34 occurred during the school year, in which case the position shall
35 be so listed for at least fifteen (15) days. If the position is
36 listed in a newspaper, the listing shall be made in a manner con-
37 sistent with the provisions of section 60-106, Idaho Code;

38 (ii) No applications were received that met the minimum certifi-
39 cation, endorsement, education or experience requirements of the
40 position other than such spouse;

41 (iii) The director abstained from voting in the employment of the
42 spouse and was absent from the meeting while such employment was
43 being considered and determined.

44 The public charter school may employ such spouse for further school
45 years, provided that the conditions contained in this paragraph are
46 met for each school year in which such spouse is employed. The director
47 shall abstain from voting in any decisions affecting the compensation,
48 benefits, individual performance evaluation or disciplinary action
49 related to the spouse and shall be absent from the meeting while such
50 issues are being considered and determined. Such limitation shall

1 include, but not be limited to: any matters relating to negotiations
 2 regarding compensation and benefits; discussion and negotiation with
 3 district benefits providers; and any matter relating to the spouse and
 4 letters of reprimand, direction, probation or termination. Such lim-
 5 itations shall not prohibit the trustee spouse from participating in
 6 deliberation and voting upon the district's annual fiscal budget or an-
 7 nual audit report. Any spouse of a director employed as a certificated
 8 employee pursuant to this paragraph shall be employed under a category 1
 9 contract pursuant to section 33-514A, Idaho Code.

10 (6) When any relative of any director or relative of the spouse of a di-
 11 rector related by affinity or consanguinity within the second degree is to
 12 be considered for employment in a public charter school, such director shall
 13 abstain from voting in the election of such relative and shall be absent from
 14 the meeting while such employment is being considered and determined.

15 SECTION 71. That Section 33-5204, Idaho Code, as enacted by Section 9,
 16 Chapter 252, Laws of 2014, be, and the same is hereby amended to read as fol-
 17 lows:

18 33-5204. NONPROFIT CORPORATION -- LIABILITY -- INSURANCE. (1) A pub-
 19 lic charter school shall be organized and managed under the Idaho nonprofit
 20 corporation act. The board of directors of a public charter school shall
 21 be deemed public agents authorized by a public school district, the pub-
 22 lic charter school commission, or the state board of education to control
 23 the public charter school, but shall function independently of any school
 24 board of trustees in any school district in which the public charter school
 25 is located or independently of the public charter school commission, ex-
 26 cept as provided in the charter. For the purposes of section 59-1302(15),
 27 Idaho Code, a public charter school created pursuant to this chapter shall
 28 be deemed a governmental entity. Pursuant to the provisions of section
 29 63-36220, Idaho Code, sales to or purchases by a public charter school are
 30 exempt from payment of the sales and use tax. A public charter school and the
 31 board of directors of a public charter school are subject to the provisions
 32 of:

- 33 (a) Sections 18-1351 through 18-1362, Idaho Code, on bribery and cor-
 34 rupt influence, except as provided by section 33-5204A(2), Idaho Code;
- 35 (b) ~~Chapter 2, title 59~~ Chapter 5, title 74, Idaho Code, on prohibitions
 36 against contracts with officers;
- 37 (c) ~~Chapter 7, title 59~~ Chapter 4, title 74, Idaho Code, on ethics in
 38 government;
- 39 (d) ~~Chapter 23, title 67~~ Chapter 2, title 74, Idaho Code, on open public
 40 meetings; and
- 41 (e) ~~Chapter 3, title 9~~ Chapter 1, title 74, Idaho Code, on disclosure of
 42 public records;

43 in the same manner that a traditional public school and the board of school
 44 trustees of a school district are subject to those provisions.

45 (2) A public charter school may sue or be sued, purchase, receive, hold
 46 and convey real and personal property for school purposes, and borrow money
 47 for such purposes, to the same extent and on the same conditions as a tra-
 48 ditional public school district, and its employees, directors and officers
 49 shall enjoy the same immunities as employees, directors and officers of tra-

1 ditional public school districts and other public schools, including those
2 provided by chapter 9, title 6, Idaho Code. The authorized chartering entity
3 that approves a public school charter shall have no liability for the acts,
4 omissions, debts or other obligations of a public charter school, except as
5 may be provided in the charter. A local public school district shall have
6 no liability for the acts, omissions, debts or other obligations of a public
7 charter school located in its district that has been approved by an autho-
8 rized chartering entity other than the board of trustees of the local school
9 district.

10 (3) Nothing in this chapter shall prevent the board of directors of a
11 public charter school, operating as a nonprofit corporation, from borrow-
12 ing money to finance the purchase or lease of school building facilities,
13 equipment and furnishings of those school building facilities. Subject to
14 the terms of a contractual agreement between the board and a lender, noth-
15 ing herein shall prevent the board from using the facility, its equipment and
16 furnishings as collateral for the loan.

17 (4) Public charter schools shall secure insurance for liability and
18 property loss.

19 (5) It shall be unlawful for:

20 (a) Any director to have pecuniary interest, directly or indirectly,
21 in any contract or other transaction pertaining to the maintenance or
22 conduct of the authorized chartering entity and charter or to accept
23 any reward or compensation for services rendered as a director except
24 as may be otherwise provided in this subsection. The board of directors
25 of a public charter school may accept and award contracts involving the
26 public charter school to businesses in which the director or a person
27 related to him by blood or marriage within the second degree has a direct
28 or indirect interest, provided that the procedures set forth in section
29 18-1361 or 18-1361A, Idaho Code, are followed. The receiving, solicit-
30 ing or acceptance of moneys of a public charter school for deposit in any
31 bank or trust company, or the lending of moneys by any bank or trust com-
32 pany to any public charter school, shall not be deemed to be a contract
33 pertaining to the maintenance or conduct of a public charter school and
34 authorized chartering entity within the meaning of this section; nor
35 shall the payment by any public charter school board of directors of
36 compensation to any bank or trust company for services rendered in the
37 transaction of any banking business with such public charter school
38 board of directors be deemed the payment of any reward or compensation
39 to any officer or director of any such bank or trust company within the
40 meaning of this section.

41 (b) The board of directors of any public charter school to enter into
42 or execute any contract with the spouse of any member of such board, the
43 terms of which said contract require, or will require, the payment or
44 delivery of any public charter school funds, moneys or property to such
45 spouse, except as provided in section 18-1361 or 18-1361A, Idaho Code.

46 (6) When any relative of any director or relative of the spouse of a di-
47 rector related by affinity or consanguinity within the second degree is to
48 be considered for employment in a public charter school, such director shall
49 abstain from voting in the election of such relative and shall be absent from
50 the meeting while such employment is being considered and determined.

1 SECTION 72. That Section 33-5204A, Idaho Code, be, and the same is
2 hereby amended to read as follows:

3 33-5204A. APPLICABILITY OF PROFESSIONAL CODES AND STANDARDS -- LIM-
4 ITATIONS UPON AUTHORITY. (1) Every person who serves in a public charter
5 school, either as an employee, contractor, or otherwise, in the capacity of
6 teacher, supervisor, administrator, education specialist, school nurse or
7 librarian, must comply with the professional codes and standards approved by
8 the state board of education, including standards for ethics or conduct.

9 (2) Every employee of a public charter school and every member of the
10 board of directors of a public charter school, whether compensated or non-
11 compensated, shall comply with the standards of ethics or conduct applica-
12 ble to public officials including, but not limited to, ~~chapter 7, title 59~~
13 chapter 4, title 74, Idaho Code, except that section ~~59-704A~~ 74-405, Idaho
14 Code, which permits a noncompensated public official to have an interest in a
15 contract made or entered into by the board of which he is a member under cer-
16 tain conditions, shall not apply to the board of directors of a public char-
17 ter school. A member of the board of directors of a public charter school
18 is prohibited from receiving a personal pecuniary benefit, directly or in-
19 directly, pertaining to a contractual relationship with the public charter
20 school.

21 SECTION 73. That Section 33-5504A, Idaho Code, be, and the same is
22 hereby amended to read as follows:

23 33-5504A. GOVERNMENTAL ENTITY. (1) The Idaho digital learning acad-
24 emy shall be a governmental entity as provided in section 33-5502, Idaho
25 Code. For the purposes of section 59-1302(15), Idaho Code, the Idaho digital
26 learning academy created pursuant to this chapter shall be deemed a govern-
27 mental entity. Pursuant to the provisions of section 63-36220, Idaho Code,
28 sales to or purchases by the Idaho digital learning academy are exempt from
29 payment of the sales and use tax. The Idaho digital learning academy, its
30 employees and its board of directors are subject to the following provisions
31 in the same manner as a traditional public school and the board of trustees
32 of a school district:

- 33 (a) Sections 18-1351 through 18-1362, Idaho Code, on bribery and cor-
34 rupt influence, except as provided by section 33-5204A(2), Idaho Code;
35 (b) ~~Chapter 2, title 59~~ Chapter 5, title 74, Idaho Code, on prohibitions
36 against contracts with officers;
37 (c) ~~Chapter 7, title 59~~ Chapter 4, title 74, Idaho Code, on ethics in
38 government;
39 (d) ~~Chapter 23, title 67~~ Chapter 2, title 74, Idaho Code, on open public
40 meetings;
41 (e) ~~Chapter 3, title 9~~ Chapter 1, title 74, Idaho Code, on disclosure of
42 public records;
43 (f) Section 33-1216, Idaho Code, on sick and other leave;
44 (g) Section 33-1217, Idaho Code, on accumulation of unused sick leave;
45 (h) Section 33-1218, Idaho Code, on sick leave in excess of statutory
46 minimum amounts; and
47 (i) Section 33-1228, Idaho Code, on severance allowance at retirement.

1 (2) The Idaho digital learning academy may sue or be sued, purchase, re-
2 ceive, hold and convey real and personal property for school purposes, and
3 its employees, directors and officers shall enjoy the same immunities as em-
4 ployees, directors and officers of traditional public school districts and
5 other public schools, including those provided by chapter 9, title 6, Idaho
6 Code.

7 (3) The Idaho digital learning academy shall secure insurance for lia-
8 bility and property loss.

9 (4) It shall be unlawful for:

10 (a) Any director to have pecuniary interest directly or indirectly in
11 any contract or other transaction pertaining to the maintenance or con-
12 duct of the Idaho digital learning academy, or to accept any reward or
13 compensation for services rendered as a director except as may be oth-
14 erwise provided in this subsection (4). The board of directors of the
15 Idaho digital learning academy may accept and award contracts involving
16 the Idaho digital learning academy to businesses in which the director
17 or a person related to him by blood or marriage within the second degree
18 of consanguinity has a direct or indirect interest, provided that the
19 procedures set forth in section 18-1361 or 18-1361A, Idaho Code, are
20 followed. The receiving, soliciting or acceptance of moneys of the
21 Idaho digital learning academy for deposit in any bank or trust company,
22 or the lending of moneys by any bank or trust company to the Idaho digi-
23 tal learning academy, shall not be deemed to be a contract pertaining to
24 the maintenance or conduct of the Idaho digital learning academy within
25 the meaning of this section; nor shall the payment of compensation by
26 the Idaho digital learning academy board of directors to any bank or
27 trust company for services rendered in the transaction of any banking
28 business with the Idaho digital learning academy board of directors
29 be deemed the payment of any reward or compensation to any officer or
30 director of any such bank or trust company within the meaning of this
31 section.

32 (b) The board of directors of the Idaho digital learning academy to en-
33 ter into or execute any contract with the spouse of any member of such
34 board, the terms of which said contract require, or will require, the
35 payment or delivery of any Idaho digital learning academy funds, mon-
36 eys or property to such spouse, except as provided in section 18-1361 or
37 18-1361A, Idaho Code.

38 (5) When any relative of any director, or relative of the spouse of a di-
39 rector related by affinity or consanguinity within the second degree, is to
40 be considered for employment in the Idaho digital learning academy, such di-
41 rector shall abstain from voting in the election of such relative, and shall
42 be absent from the meeting while such employment is being considered and de-
43 termined.

44 SECTION 74. That Section 34-416, Idaho Code, be, and the same is hereby
45 amended to read as follows:

46 34-416. REGISTRATION CARDS. (1) The registration card shall contain
47 the following warning:

48 WARNING: Any elector who supplies any information, knowing it to be
49 false, is guilty of perjury.

1 (2) The elector shall read the warning set forth in subsection (1) of
2 this section and shall sign his name in an appropriate place on the completed
3 card.

4 (3) The registration card completed and signed as provided in this sec-
5 tion constitutes the official registration card of the elector. The county
6 clerk shall keep and file all such cards in a convenient manner in his office.
7 Such cards constitute the register of electors and shall be considered con-
8 fidential and unavailable for public inspection and copying except as pro-
9 vided by subsection (25) of section ~~9-340C~~ 74-106, Idaho Code.

10 SECTION 75. That Section 36-105, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 36-105. COMMISSION ORDERS, RULES AND PROCLAMATIONS. (1) Adoption and
13 Publication of Rules and Orders. All rules and orders adopted pursuant to
14 the provisions of this title shall be made in accordance with chapter 52, ti-
15 tle 67, Idaho Code. Said rules and orders may also be given such other pub-
16 licity as the commission may deem desirable.

17 (2) Violation of Rules, Proclamations and Orders. All rules, proclama-
18 tions and orders made as herein provided shall have full force and effect as
19 law and any person violating any such rule, proclamation or order of the com-
20 mission, adopted and published as herein set forth, shall be found guilty as
21 set forth in section 36-1401, Idaho Code.

22 (3) Notwithstanding any other provision of chapter 52, title 67, Idaho
23 Code, the Idaho fish and game commission and the director of the Idaho fish
24 and game department shall be excepted from the requirements of rulemaking
25 when adopting, repealing, or amending any proclamation relating to setting
26 of any season or limit on numbers, size, sex or species of wildlife classi-
27 fied by the commission as game animals, game birds, furbearers, migratory
28 birds, salmon, steelhead and resident fish which may be taken in this state
29 if:

30 (a) Notice of the proposed proclamation is published in the Idaho ad-
31 ministrative bulletin and is provided in the same manner as an open
32 meeting under section ~~67-2343~~ 74-204, Idaho Code;

33 (b) Notice is given to the director of the legislative services office
34 for review by the germane joint subcommittee as soon as possible after
35 adoption by the commission; and

36 (c) The proclamation shall be published in a pamphlet or brochure as
37 provided in section 59-1012, Idaho Code, and distributed without charge
38 to the public. The text of the proclamation published in a pamphlet or
39 brochure shall be the official text of the proclamation. Judicial no-
40 tice shall be taken of the proclamation pamphlet or brochure.

41 SECTION 76. That Section 36-402, Idaho Code, be, and the same is hereby
42 amended to read as follows:

43 36-402. LICENSES -- AUTHORITY -- LIMITATIONS -- CONFIDENTIALITY. The
44 licenses mentioned in this chapter shall entitle the person to whom issued
45 to take such wildlife as may be authorized by said license, subject to the
46 limitations set forth under this title and commission regulations promul-
47 gated pursuant thereto. Except as otherwise provided by law relating to the

1 release of information to a governmental entity or law enforcement agency,
 2 any personal information including, but not limited to, names, personal and
 3 business addresses and phone numbers, sex, height, weight, date of birth,
 4 social security and driver's license numbers, or any other identifying num-
 5 bers and/or information related to any Idaho fish and game licenses, per-
 6 mits and tags shall be confidential and not subject to disclosure pursuant to
 7 the provisions of ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, unless
 8 written consent is obtained from the affected person.

9 SECTION 77. That Section 36-2114, Idaho Code, be, and the same is hereby
 10 amended to read as follows:

11 36-2114. REVOCATION OR SUSPENSION OF LICENSE -- REVIEW OF DENIAL OF
 12 LICENSE -- PROCEDURE. (a) Proceedings for the revocation or suspension of
 13 a license issued hereunder may be taken upon information and recommendation
 14 of any person. All accusations must be made in writing and signed by a per-
 15 son familiar therewith and submitted to the board. Thereupon, the board,
 16 acting as a board, or through its executive director, shall make a prelim-
 17 inary investigation of all facts in connection with such charge. The board
 18 in its discretion may either decide to take no further action and the results
 19 of such investigation shall be subject to disclosure according to ~~chapter 3,~~
 20 ~~title 9~~ chapter 1, title 74, Idaho Code, or the board may decide to initi-
 21 ate proceedings to suspend or revoke the license of the outfitter or guide
 22 against whom a complaint has been filed, in which case the board shall set a
 23 time and place for hearing as provided in chapter 52, title 67, Idaho Code.
 24 Notice of such hearing shall be given to the licensee against whom a citation
 25 or formal complaint has been filed not later than one hundred eighty (180)
 26 days after the filing of such citation or formal complaint. If, after full,
 27 fair and impartial hearing, the majority of the board shall find the accused
 28 has committed the violations alleged, the board may suspend the license for a
 29 period not to exceed one (1) year, or the board may order the license revoked.
 30 The board shall forthwith suspend or revoke such license in accordance with
 31 and pursuant to its order under the procedure established in chapter 52, ti-
 32 tle 67, Idaho Code.

33 (b) Any applicant aggrieved by a denial of his application in whole or in
 34 part for an outfitter's or guide's license by the board shall have twenty-one
 35 (21) days from the day of receiving such notice of denial in which to submit
 36 a written request for a hearing before the board to review such action. Upon
 37 receipt of such request, the board shall hold a hearing as provided in chap-
 38 ter 52, title 67, Idaho Code.

39 SECTION 78. That Section 37-401, Idaho Code, be, and the same is hereby
 40 amended to read as follows:

41 37-401. INSPECTIONS, EXAMINATIONS AND TESTS BY DEPARTMENT OF AGRICUL-
 42 TURE -- DAIRY FARMS -- NUTRIENT MANAGEMENT PLANS REQUIRED -- CERTAIN EVI-
 43 DENCE REQUIRED. (1) The director of the department of agriculture is hereby
 44 authorized and directed to designate any agent to inspect, examine and test
 45 any or all dairy products in accordance with rules as the department may pre-
 46 scribe; and to ascertain and certify the grade, classification, quality or
 47 sanitary condition thereof and other pertinent facts as the department may

1 require. The director or agent of the department of agriculture of the state
2 of Idaho shall make sanitary inspection of milk, cream, butter and dairy
3 products of any kind whatsoever, intended for human consumption, and of con-
4 tainers, utensils, equipment, buildings, premises or anything whatsoever
5 employed in the production, handling, storing, processing or manufacturing
6 of dairy products or that would affect the purity of the products. Inspec-
7 tions, examinations and tests shall be made to meet the requirements of the
8 laws of the state and of the United States for the sale of the products or
9 their transportation in both intrastate and interstate commerce. Any agent
10 designated by the director to make inspections shall have the right for that
11 purpose to enter any premises and buildings where milk, cream, butter or
12 dairy products shall be produced, stored, processed or manufactured.

13 (2) Acting in accord with rules of the department, the director or agent
14 of the department shall review plans and specifications for construction of
15 new, modified or expanded waste systems and inspect any dairy farm to ascer-
16 tain and certify sanitary conditions, waste systems and milk quality.

17 (3) The director or agent shall issue a permit authorizing the sale of
18 milk for human consumption to all dairy farms that meet the requirements of
19 this chapter, and rules promulgated pursuant to this chapter.

20 (4) All dairy farms shall have a nutrient management plan approved by
21 the department. The nutrient management plan shall cover the dairy farm site
22 and other land owned and operated by the dairy farm owner or operator. Nu-
23 trient management plans submitted to the department by the dairy farm shall
24 include the names and addresses of each recipient of that dairy farm's live-
25 stock waste, the number of acres to which the livestock waste is applied and
26 the amount of such livestock waste received by each recipient. The infor-
27 mation provided in this subsection shall be available to the county in which
28 the dairy farm, or the land upon which the livestock waste is applied, is lo-
29 cated. If livestock waste is converted to compost before it leaves the dairy
30 farm, only the first recipient of the compost must be listed in the nutrient
31 management plan as a recipient of livestock waste from the dairy farm. Ex-
32 isting dairy farms shall submit a nutrient management plan to the department
33 on or before July 1, 2001.

34 (5) Any new dairy farms or dairy farms that change owners or operators
35 shall have an approved nutrient management plan on file with the department
36 prior to the issuance of the milk permit for that dairy. The nutrient manage-
37 ment plan shall be implemented upon approval of the plan by the department.

38 (6) The director or his agent may issue a permit to sell milk for human
39 consumption to a new or expanding dairy farm only upon presentation to the
40 director by the new or expanding dairy farm of:

41 (a) A certified letter, supplied by the board of county commissioners,
42 certifying the new or expanding dairy farm's compliance with applicable
43 county livestock ordinances; and

44 (b) Evidence that a valid water right exists to supply adequate water
45 for the new or expanding dairy farm; or

46 (c) A copy of an application for a permit to appropriate water that has
47 been filed with the Idaho department of water resources and which, if
48 approved, will supply adequate water for the dairy farm; or

49 (d) A copy of an application to change the point of diversion, place,
50 period and nature of use of an existing water right that has been filed

1 with the Idaho department of water resources and which, if approved,
2 will supply adequate water for the dairy farm.

3 (7) As used in this section:

4 (a) "Animal units" shall be as defined in rule by the director.

5 (b) "Expanding dairy farm" means an existing, legally permitted dairy
6 farm that increases, or applies to increase, its existing animal units
7 beyond the number for which it is permitted under applicable county
8 livestock ordinances or increases, or applies to increase, the waste
9 containment system.

10 (c) "New dairy farm" means a dairy farm constructed after the effective
11 date of this act.

12 (8) The nutrient management plan, and all information generated by the
13 dairy as a result of such plan, shall be deemed to be trade secrets, produc-
14 tion records or other proprietary information, shall be kept confidential
15 and shall be exempt from disclosure pursuant to section ~~9-340D~~ 74-107, Idaho
16 Code.

17 SECTION 79. That Section 37-606, Idaho Code, be, and the same is hereby
18 amended to read as follows:

19 37-606. NUTRIENT MANAGEMENT PLAN. (1) All dairy farms shall have a nu-
20 trient management plan approved by the department. The nutrient management
21 plan shall cover the dairy farm site and other land owned and operated by the
22 dairy farm owner or operator. Nutrient management plans submitted to the de-
23 partment by the dairy farm shall include the names and addresses of each re-
24 cipient of that dairy farm's livestock waste, the number of acres to which
25 the livestock waste is applied and the amount of such livestock waste re-
26 ceived by each recipient. The information provided in this subsection shall
27 be available to the county in which the dairy farm, or the land upon which the
28 livestock waste is applied, is located. If livestock waste is converted to
29 compost before it leaves the dairy farm, only the first recipient of the com-
30 post must be listed in the nutrient management plan as a recipient of live-
31 stock waste from the dairy farm. Existing dairy farms shall submit a nutri-
32 ent management plan to the department.

33 (2) Any new dairy farms or dairy farms that change owners or operators
34 shall have an approved nutrient management plan on file with the department
35 prior to the issuance of the milk permit for that dairy. The nutrient manage-
36 ment plan shall be implemented upon approval of the plan by the department.

37 (3) The nutrient management plan, and all information generated by the
38 dairy as a result of such plan, shall be deemed to be trade secrets, produc-
39 tion records or other proprietary information, shall be kept confidential
40 and shall be exempt from disclosure pursuant to section ~~9-340D~~ 74-107, Idaho
41 Code.

42 SECTION 80. That Section 37-2743, Idaho Code, be, and the same is hereby
43 amended to read as follows:

44 37-2743. COOPERATIVE ARRANGEMENTS. (a) The director of the Idaho
45 state police shall cooperate with federal and other state agencies in dis-
46 charging his responsibilities concerning traffic in controlled substances
47 and in suppressing the abuse of controlled substances. To this end, he may:

1 (1) Arrange for the exchange of information among governmental offi-
2 cials concerning the use and abuse of controlled substances;

3 (2) Coordinate and cooperate in training programs concerning con-
4 trolled substance law enforcement at local and state levels;

5 (3) Cooperate with the bureau by establishing a centralized unit to
6 accept, catalogue, file, and collect statistics, including records of
7 drug dependent persons and other controlled substance law offenders
8 within the state, and make the information available for federal, state
9 and local law enforcement purposes. The name or identity of a patient or
10 research subject whose identity could not be obtained under subsection
11 (c) of this section shall be subject to disclosure according to ~~chapter~~
12 ~~3, title 9~~ chapter 1, title 74, Idaho Code;

13 (4) Conduct programs of eradication aimed at destroying wild or il-
14 licit growth of plant species from which controlled substance may be
15 extracted;

16 (5) Enter into agreements with other states to coordinate and facili-
17 tate the enforcement of this act; and

18 (6) Require law enforcement agencies to report such information
19 regarding traffic in controlled substances and abuse of controlled sub-
20 stances as he deems necessary to enforce this act. Such reports shall
21 be on forms supplied by the director of the Idaho state police and shall
22 include, but not be limited to, the following information: Names, ages,
23 sex, race, and residences of individuals involved in violations of this
24 act; the contraband confiscated, showing the kind, location, quantity,
25 date, and place where seized; the circumstances surrounding the arrests
26 and a report of the disposition of charges.

27 (b) Results, information, and evidence received from the bureau relat-
28 ing to the regulatory functions of this act, including results of inspec-
29 tions and investigations conducted by the bureau may be relied and acted upon
30 by the board in the exercise of its regulatory functions under this act.

31 (c) A practitioner engaged in medical practice or research is not re-
32 quired or compelled to furnish the name or identity of a patient or research
33 subject to the director, nor may he be compelled in any state or local civil,
34 criminal, administrative, legislative or other proceedings to furnish the
35 name or identity of an individual that the practitioner is obligated to keep
36 confidential and as such the name or identity of the patient or research sub-
37 ject is subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, ti-
38 tle 74, Idaho Code.

39 SECTION 81. That Section 38-712, Idaho Code, be, and the same is hereby
40 amended to read as follows:

41 38-712. INFORMATION, CORRESPONDENCE AND DATA -- DUTY TO GUARD. It
42 shall be the duty of all officers and employees of the forest, wildlife and
43 range experiment station, appointed or assigned, to guard carefully all
44 confidential information accumulated in the progress of their work and such
45 information shall be subject to disclosure according to ~~chapter 3, title 9~~
46 chapter 1, title 74, Idaho Code; and to consider as property of the forest,
47 wildlife and range experiment station all correspondence, notes, illustra-
48 tions and data of any kind accumulated by them in the execution of the work of
49 the experiment station delegated to them.

1 SECTION 82. That Section 39-111, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 39-111. AVAILABILITY OF RECORDS. Any records or other information
4 furnished to the board, department or to agents, contractors, or other rep-
5 resentatives of the department under any provisions of this chapter shall be
6 subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74,
7 Idaho Code.

8 SECTION 83. That Section 39-270, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 39-270. DISCLOSURE OF INFORMATION. (a) Certificates and records in
11 the custody of the state registrar shall be open to inspection subject to
12 the provisions of this chapter and the rules of the board, the provisions
13 of section 9-302, Idaho Code, to the contrary notwithstanding; and it shall
14 be unlawful for any state or local official or employee under this chapter
15 to disclose any data contained in the records, except as authorized by this
16 chapter and the rules of the board.

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

27 (c) As provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code,
28 data contained on records may be used for research, public health or statis-
29 tical purposes. No lists of registration shall be compiled for public use.

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

32 (e) When one hundred (100) years have elapsed after the date of birth,
33 or fifty (50) years have elapsed after the date of death, stillbirth, mar-
34 riage or divorce, the records of these events in the custody of the state reg-
35 istrar shall become public records and information shall be made available
36 in accordance with ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

37 SECTION 84. That Section 39-606, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 39-606. REPORTS. Reports to the director of the department of health
40 and welfare of the existence of diseases included in this chapter shall be
41 made by the name of the patient being treated for such disease. It is the
42 intent of this chapter to observe all possible secrecy for the benefit of
43 the sufferer so long as the said sufferer conforms to the requirements of
44 this chapter. Confidential disease reports containing patient identifica-
45 tion reported under this section shall only be used by public health offi-
46 cials who must conduct investigations and shall be subject to disclosure ac-

1 cording to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. Any person
2 who willfully or maliciously discloses the content of any confidential pub-
3 lic health record, as described herein to any third party, except pursuant to
4 a written authorization by the person who is the subject of the record or by
5 his or her guardian or conservator, or as otherwise authorized by law, shall
6 be guilty of a misdemeanor.

7 SECTION 85. That Section 39-610, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 39-610. DISCLOSURE OF HIV AND HBV REPORTING INFORMATION. (1) Confi-
10 dential public health record as described in section 39-606, Idaho Code,
11 shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1,
12 title 74, Idaho Code, shall not be discoverable, and shall not be compelled
13 to be produced in any civil or administrative hearing.

14 (2) State or local health authorities may contact and advise those per-
15 sons who, in the judgment of health authorities, have been exposed to the HIV
16 (human immunodeficiency virus) or hepatitis B (HBV) infections.

17 (3) The department of health and welfare shall, in a manner established
18 by rules and regulations, accept from persons involved in providing emer-
19 gency or medical services reports of significant exposures to the blood or
20 body fluids of a patient or deceased person. The department of health and
21 welfare shall promulgate rules and regulations defining the term "signifi-
22 cant exposure" as used in this section. Upon receipt of a report made pur-
23 suant to section 39-602, Idaho Code, confirming the presence of HIV or HBV
24 virus in a patient or a deceased person, the director of the department of
25 health and welfare, or his designee, shall immediately contact and advise
26 any and all persons who, on the basis of information then or thereafter re-
27 ported to the department, have had a significant exposure to the blood or
28 body fluids of that infected patient or deceased person. The significantly
29 exposed person shall be informed only that he may have been exposed to HIV or
30 HBV, as the case may be, and thereafter advised of whatever prophylactic and
31 testing procedures are appropriate. The significantly exposed person shall
32 not be informed of the name of the infected patient or deceased person. Addi-
33 tionally, the department of health and welfare shall, to the greatest extent
34 consistent with public health requirements, maintain the confidentiality of
35 the identity of the significantly exposed person.

36 (4) Public health authorities may disclose personally identifying in-
37 formation in public health records, as described in section 39-606, Idaho
38 Code, to other local or state public health agencies when the confidential
39 information is necessary to carry out the duties of the agency in the inves-
40 tigation, control and surveillance of disease, as determined by the state
41 board of health and welfare, or as otherwise authorized by law.

42 (5) Nothing in this chapter imposes liability or criminal sanction for
43 disclosure or nondisclosure of the results of a blood test to detect HIV or
44 HBV virus in accordance with any reporting requirements of the department of
45 health and welfare.

46 SECTION 86. That Section 39-1210, Idaho Code, be, and the same is hereby
47 amended to read as follows:

1 39-1210. STANDARDS FOR CHILDREN'S RESIDENTIAL CARE FACILITIES. The
 2 board of health and welfare shall have the power and it shall be its duty to
 3 promulgate appropriate rules necessary to implement and enforce the follow-
 4 ing standards for licensing a children's residential care facility:

5 (1) Assure the organizational stability of the facility, which may re-
 6 quire incorporation under the laws of Idaho.

7 (2) Require from the policy-making authority of the facility the pro-
 8 mulgation of a statement setting forth the facility's purposes and objec-
 9 tives and describing the character and extent of the services which it offers
 10 and maintains, and the geographical area to be served.

11 (3) Require a statement of solvency sufficient to maintain facilities
 12 and personnel necessary to achieve its purposes and objectives and to main-
 13 tain its services.

14 (4) Assure such recordkeeping and reporting as may be deemed necessary
 15 to the facility's services and to the department's licensing responsibil-
 16 ity.

17 (5) Assure the safety and physical care of children for whom the facil-
 18 ity assumes or accepts responsibility.

19 (6) Establish the legal status of each child accepted for care and the
 20 legal authority and responsibility of the facility for the child.

21 (7) Require a statement of intake policy which shall set forth criteria
 22 for accepting children for care or service in relation to the facility's pur-
 23 poses and facilities.

24 (8) Provide through observation and collateral inquiry for studies of
 25 homes into which children may be placed sufficient to enable a judgment de-
 26 termining the adequacy of the homes in relation to the needs of the children.

27 (9) In the case of an institution specializing in maternity care to un-
 28 married mothers:

29 (a) Assure social services on behalf of both the mother and infant; and

30 (b) Assure protection of the legal rights and rights to confidential
 31 treatment of minor unmarried mothers and their children which shall be
 32 subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title
 33 74, Idaho Code.

34 (10) The department shall obtain a criminal history check on the owners,
 35 operators and employees of all children's residential care facilities. The
 36 criminal history check shall include the following:

37 (a) Statewide criminal identification bureau;

38 (b) Federal bureau of investigation (FBI) criminal history;

39 (c) National crime information center; and

40 (d) Statewide child abuse register.

41 SECTION 87. That Section 39-1310, Idaho Code, be, and the same is hereby
 42 amended to read as follows:

43 39-1310. INFORMATION. Information received by the licensing agency
 44 through filed reports, inspection, or as otherwise authorized under this
 45 law, which would identify individual residents or patients of facilities or
 46 agencies as defined shall be subject to disclosure according to ~~chapter 3,~~
 47 title 9 chapter 1, title 74, Idaho Code, except in a proceeding involving
 48 the question of licensure. Public disclosure of information obtained by the
 49 licensing agency for the purposes of this act shall be governed by ~~chapter~~

1 ~~3, title 9 chapter 1, title 74~~, Idaho Code. Nothing in this act, however,
 2 shall be construed, nor shall any rule or regulation be promulgated under
 3 this section, as to impair, restrict or alter the confidentiality and priv-
 4 ilege afforded the physician and patient communications, including without
 5 limitation, documentation thereof in records of facilities or agencies as
 6 defined, or communications to and with nurses or other assisting persons or
 7 entities, nor shall this act be construed to amend by implication such physi-
 8 cian-patient communication privilege as provided elsewhere in this code,
 9 including without limitation section 9-203(4), Idaho Code, which shall re-
 10 main inviolate.

11 SECTION 88. That Section 39-1393, Idaho Code, be, and the same is hereby
 12 amended to read as follows:

13 39-1393. NOTIFICATION OF PROFESSIONAL REVIEW ACTION IMPOSED UPON
 14 PHYSICIAN OR EMERGENCY MEDICAL SERVICES PERSONNEL. (1) Any health care or-
 15 ganization in this state that is by law required to conduct peer review or
 16 which voluntarily formally elects to conduct professional review actions
 17 shall notify the board of medicine of professional review actions taken
 18 against physicians licensed in Idaho required to be reported as provided
 19 in this section. Such reports shall be made to the board of medicine within
 20 fifteen (15) days of completion of the professional review action by the
 21 health care organization. For emergency medical services personnel, such
 22 reports shall be made to the department of health and welfare within fifteen
 23 (15) days of completion of the professional review action by the health care
 24 organization. Such required reports shall be made on forms approved by the
 25 board of medicine for reports concerning physicians, or the department of
 26 health and welfare for reports concerning emergency medical services per-
 27 sonnel, consistent with the reporting requirements of this section. The
 28 reporting obligation shall not be stayed by the filing of any court proceed-
 29 ing unless otherwise ordered by the court.

30 (2) A health care organization in Idaho shall report to the board of
 31 medicine if it:

32 (a) Takes a professional review action against a physician licensed in
 33 Idaho and imposes a sanction of the type included in subsection (3) of
 34 this section which lasts longer than thirty (30) days; or

35 (b) Accepts a voluntary sanction by a physician licensed in Idaho of the
 36 type identified in subsection (3) of this section while the physician is
 37 under investigation or to avoid investigation by the health care organ-
 38 ization relating to the professional competence or professional con-
 39 duct of the physician or in exchange for the health care organization
 40 not conducting such an investigation or initiating a professional re-
 41 view action, if the sanction lasts longer than thirty (30) days.

42 (3) Professional review action sanctions against a physician which
 43 must be reported to the board of medicine pursuant to subsection (2) of this
 44 section, whether voluntary or involuntary, shall be:

45 (a) Restriction or limitation of privileges;

46 (b) Revocation of privileges;

47 (c) Suspension of privileges;

48 (d) Reduction of privileges;

49 (e) Denial of a request for initial privileges;

1 (f) Submission to monitoring of the physician's physical or mental con-
2 dition;

3 (g) Submission to monitoring of the physician's delivery of medical
4 services other than to assess and monitor the physician's qualifica-
5 tions for new or additional privileges;

6 (h) Surrender of privileges;

7 (i) Summary suspension or reduction of privileges lasting longer than
8 thirty (30) days;

9 (j) Termination of employment;

10 (k) Suspension of employment lasting longer than thirty (30) days.

11 (4) The reporting requirements of this section shall not apply to:

12 (a) Actions based on compliance with medical records or confidential-
13 ity requirements of a health care organization;

14 (b) Voluntary requests for assistance or monitoring by a physician as
15 part of an educational process to improve physician skills or enhance
16 patient care when unrelated to a professional review action concerning
17 the quality or necessity of patient medical care;

18 (c) Voluntary or involuntary revocation, nonrenewal, denial, reduc-
19 tion, restriction, resignation, or limitation of privileges or employ-
20 ment of a physician based upon factors not directly impacting the qual-
21 ity of patient care or safety of practice of the physician;

22 (d) Adverse actions taken against a physician by a health care organ-
23 ization that is not required by law to conduct peer review and that has
24 not voluntarily formally elected to conduct professional review ac-
25 tions; and

26 (e) The denial of a physician's request for additional privileges or
27 credentials with a health care organization.

28 (5) The report to the board of medicine required by this section shall
29 include a statement of the quality of care concerns or professional conduct
30 that is the basis of the professional review action or investigation and the
31 reportable professional review action sanction voluntarily accepted or in-
32 voluntarily imposed.

33 (6) A health care organization required to report a professional review
34 action concerning a physician to the board of medicine pursuant to this sec-
35 tion shall, if requested by the board of medicine, provide to the board the
36 following:

37 (a) A statement of the specific quality of care concerns or profes-
38 sional conduct which resulted in the professional review action sanc-
39 tion;

40 (b) A statement of the specific professional review action sanction;
41 and

42 (c) Any patient care records of the health care organization regard-
43 ing the care provided by the reported physician. However, the board
44 of medicine may not request or require production of any peer review
45 records from any person or health care organization, including the
46 identification of which particular patient care records were selected
47 for, or reviewed, examined or discussed in any peer review activity of a
48 health care organization, or the method used by the health care organi-
49 zation to select such patient care records for peer review.

1 (7) The records lawfully requested by the board of medicine pursuant
 2 to subsection (6) of this section shall be provided by the health care or-
 3 ganization without a subpoena or court order. If the health care organiza-
 4 tion fails to comply with the board of medicine's lawful request, the board
 5 may petition the district court for an order compelling compliance with the
 6 board's request, which shall be granted if disclosure is required by law.

7 (8) Professional review action sanctions against emergency medical
 8 services personnel, whether voluntary or involuntary, which are the result
 9 of any action, conduct, or failure to act which is inconsistent with the pro-
 10 fessionalism and/or standards established in the rules governing emergency
 11 medical services personnel as promulgated by the department of health and
 12 welfare must be reported to the department of health and welfare.

13 (9) The report to the department of health and welfare required by this
 14 section shall include a statement of the quality of care concerns or profes-
 15 sional conduct that is the basis of the professional review action or inves-
 16 tigation and the reportable professional review action sanction voluntarily
 17 accepted or involuntarily imposed.

18 (10) Any person or health care organization that provides notification
 19 as required by law, or in a good faith belief that such notification is re-
 20 quired by law, shall be immune from any civil or other liability arising from
 21 providing the notification. Such immunity shall likewise pertain to the
 22 provision of files, records and information a health care organization may
 23 in good faith provide to the board of medicine pursuant to this section or
 24 other applicable law. Such materials provided to the board of medicine shall
 25 be subject to disclosure by the board according to ~~chapter 3, title 9~~ chapter
 26 1, title 74, Idaho Code, and available only to the board of medicine and its
 27 staff unless and until such matter becomes the subject of formal proceedings
 28 by or before the board of medicine or authorized by it.

29 SECTION 89. That Section 39-2812, Idaho Code, be, and the same is hereby
 30 amended to read as follows:

31 39-2812. PESTS -- PUBLIC HEALTH AND WELFARE -- DISASTERS -- EMERGEN-
 32 CIES -- INTERIM ABATEMENT DISTRICTS. (1) To provide for the timely response
 33 to an elevated or anticipated pest population that may constitute a risk to
 34 public health and welfare, the board of county commissioners of each county
 35 of this state, in collaboration with duly recognized local and state offi-
 36 cials, and after a public hearing is called for such purpose as a special
 37 meeting pursuant to the provisions of section ~~67-2343~~ 74-204(2), Idaho Code,
 38 is hereby granted full power and authority to declare such pests as public
 39 health and welfare pests, and to initiate activities to hinder in the poten-
 40 tial spread of disease, or adverse economic impact, caused by these pests by
 41 taking appropriate steps to intervene in the natural biological cycle of the
 42 pests or disease.

43 (2) Boards of county commissioners are further authorized and empow-
 44 ered, in the event of a disaster or emergency declared by such boards, to
 45 make direct appropriations for the purpose of controlling public health and
 46 welfare pests as declared pursuant to this section. All moneys raised by
 47 direct appropriation shall be placed in a county public health and welfare
 48 pest fund, which shall be used exclusively for the control of pests of public
 49 health and welfare significance and for payment of all necessary expenses

1 incurred in such control program. In addition, the county may impose an an-
2 nual property tax assessment pursuant to section 39-2805, Idaho Code, and
3 in accordance with the provisions of sections 63-802 and 63-803, Idaho Code,
4 for the term of the disaster or emergency or until all expenses incurred dur-
5 uring the disaster or emergency have been recovered. Such fund shall be a re-
6 volving fund and all moneys returned to the fund under any of the provisions
7 of this chapter shall continue to be available for the operation of the con-
8 trol program.

9 (3) The disaster or emergency declaration of a pest of public health
10 and welfare significance within a county and subsequent pest management
11 activity shall, except as provided herein, place the whole county into an
12 interim abatement district for administrative purposes for no more than two
13 (2) years. The transition of an interim abatement district into a formally
14 defined abatement district, shall be brought to a vote of the electorate
15 within twenty-four (24) months of the declaration, subject to the notifica-
16 tion and establishment requirements provided in this chapter and conducted
17 during a general election held on the first Tuesday following the first Mon-
18 day in November of even numbered years, and if passed, the district shall be
19 recognized and the provisions of this chapter shall be implemented. If the
20 measure fails, the balance of revolving fund moneys shall be distributed as
21 required by state law. In the event the disaster or emergency exceeds the
22 county's capacity or resources, provisions should be made to request state
23 or federal disaster or emergency funds to address the evolving situation.
24 If the interim abatement district provides the same service as an existing
25 abatement district, the interim abatement district shall exclude any area
26 within an existing abatement district.

27 SECTION 90. That Section 39-3556, Idaho Code, be, and the same is hereby
28 amended to read as follows:

29 39-3556. COMPLAINTS. (1) A person who believes that any provision
30 of this chapter has been violated may file a complaint with the certifying
31 agency. Any such complaint shall be subject to the exemption from disclosure
32 set forth in section ~~9-340B~~ 74-105(16), Idaho Code.

33 (2) The certifying agency shall investigate, or cause to be investi-
34 gated, any complaint alleging a violation of this chapter or applicable
35 rules. If the certifying agency reasonably believes there has been such a
36 violation, it shall conduct an inspection of the facility.

37 SECTION 91. That Section 39-3913, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 39-3913. CONFIDENTIALITY OF AND ACCESS TO RECORDS. (1) Records devel-
40 oped by the evaluation committee and records contained in court files of ju-
41 dicial proceedings brought under this chapter shall be governed by the pro-
42 visions of ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

43 (2) The administrative director of the courts shall compile statistics
44 for each calendar year, accessible to the public, including:

45 (a) The total number of petitions filed pursuant to this chapter;

1 (b) The number of petitions in which the evaluation committee recom-
 2 mended a procedure and the number of petitions in which the evaluation
 3 committee recommended against a procedure;

4 (c) The number of petitions granted by the court;

5 (d) For categories described in paragraphs (b) and (c) of this subsec-
 6 tion, the number of appeals taken from the court's order in each cate-
 7 gory; and

8 (e) For each of the categories set out in paragraph (d) of this subsec-
 9 tion, the number of cases for which the district court's order was af-
 10 firmed and the number of cases for which the district court's order was
 11 reversed.

12 SECTION 92. That Section 39-4411, Idaho Code, be, and the same is hereby
 13 amended to read as follows:

14 39-4411. RECORDS -- REPORTING -- MONITORING. (1) Pursuant to the pro-
 15 visions of section 39-4405, Idaho Code, the board shall adopt, and amend as
 16 necessary, such rules relating to records, reporting, and monitoring as may
 17 be needed to achieve the purposes of this chapter. These rules may include,
 18 but shall not be limited to, prescribing procedures and requirements for:

19 (a) The establishment, maintenance, and format of records and reports;

20 (b) The submittal of records and reports;

21 (c) The taking of samples and the performing of tests and of analyses;

22 (d) The use of approved monitoring methods and techniques;

23 (e) The installation, calibration, use, and maintenance of monitoring
 24 equipment; and

25 (f) The provision of relevant information to the department.

26 (2) Sixty (60) days after promulgation of the criteria and lists spec-
 27 ified under section 39-4407, Idaho Code, and the rules required under sec-
 28 tion 39-4405, Idaho Code, and subsection (1) of this section, the genera-
 29 tion, transportation, treatment, storage, or disposal of a hazardous waste
 30 in this state by any person without reporting such activity to the department
 31 as required by the rules issued pursuant to subsection (1) of this section
 32 shall be unlawful.

33 (3) Information obtained by the department or by agents, contractors,
 34 or other representatives of the department, under any provisions of this
 35 chapter, shall be subject to disclosure according to ~~chapter 3, title 9~~
 36 chapter 1, title 74, Idaho Code.

37 (4) Effective January 1, 1996, each generator shall, at the discretion
 38 of the director, no later than thirty (30) days after the end of each calendar
 39 year submit a written annual report to the department including the follow-
 40 ing information:

41 (a) The types and quantities of hazardous wastes generated;

42 (b) The types and quantities of such wastes shipped for treatment and
 43 disposal by landfilling or other means of disposal;

44 (c) The types and quantities of such wastes remaining in storage at the
 45 end of the reporting period;

46 (d) Whether such wastes are destined for disposal or treatment in this
 47 state or whether such wastes are destined for disposal or treatment out-
 48 side this state.

1 (5) Effective January 1, 1996, the operator of each commercial haz-
2 ardous waste disposal facility or site in the state shall, no later than
3 thirty (30) days after the end of each calendar year, submit a written annual
4 report to the department providing information on the types and quanti-
5 ties of wastes received which were generated in Idaho, and information on
6 the types and quantities of wastes received which were generated in other
7 states.

8 (6) Prior to March 1 of each year the department shall submit a report
9 to the governor and the legislature detailing the types and quantities of
10 hazardous wastes generated in this state, the types and quantities of such
11 wastes shipped for treatment and disposal by landfilling or other means of
12 disposal, the types and quantities of such wastes remaining in storage at
13 the end of the most recent reporting period and the types and quantities of
14 hazardous waste generated outside this state and shipped into this state for
15 storage or disposal.

16 SECTION 93. That Section 39-4412, Idaho Code, be, and the same is hereby
17 amended to read as follows:

18 39-4412. INSPECTIONS -- RIGHT OF ENTRY. (1) All inspections and
19 searches conducted under the authority of this chapter shall be performed in
20 conformity with the prohibitions against unreasonable searches and seizures
21 contained in the fourth amendment to the constitution of the United States
22 and article I, section 17, of the constitution of the state of Idaho. The
23 state shall not, under the authority granted by this chapter, conduct war-
24 rantless administrative searches of private property in the absence of
25 either consent from the property owner or occupier or exigent circumstances
26 such as a public health or environmental emergency.

27 (2) For the purposes of developing or enforcing any provision of this
28 chapter or any rule or regulation authorized by this chapter, any duly autho-
29 rized state employee or representative may, upon presentation of appropri-
30 ate credentials, at any reasonable time:

31 (a) Enter upon any private or public property where hazardous wastes
32 are or have been generated, transported, treated, stored, or disposed
33 of to inspect and to secure samples of such wastes, their containers,
34 and their labels;

35 (b) Enter into any aircraft, vehicle, vessel, rail car, trailer, van,
36 or other means of conveyance where hazardous wastes are or have been
37 contained to inspect and to secure samples of such wastes, their con-
38 tainers, and their labels;

39 (c) Enter any private or public property, or means of conveyance, where
40 records, reports, information or test results relating to the gener-
41 ation, transportation, treatment, storage, or disposal of hazardous
42 wastes exist to inspect and copy such documents.

43 (3) Upon request by an authorized agent of a property owner or facil-
44 ity operator, the department shall provide the property owner or facility
45 operator with a receipt for samples taken and a copy of sample analysis. Du-
46 plicate samples shall similarly be provided upon request if the requesting
47 party agrees to have the samples analyzed and to share the results of the
48 analysis with the department.

1 (4) The right of entry of a duly authorized state employee or represen-
2 tative shall not be subject to the waiver of any potential tort liability of
3 the facility owner or operator. The right of entry of a duly authorized state
4 or health district employee shall not be subject to any confidentiality re-
5 quirements other than those specified in section 39-4411(3), Idaho Code, and
6 ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. The right of entry of
7 a private contractor working in a representative capacity for the depart-
8 ment may, however, be made subject to additional confidentiality require-
9 ments so long as those requirements do not interfere unreasonably with the
10 development of information by the department or the transmission of informa-
11 tion from the contractor to the department or the United States environmen-
12 tal protection agency.

13 (5) Any magistrate or district court judge is authorized to issue an ad-
14 ministrative search warrant upon a request from the director describing rea-
15 sonable cause for issuance of the warrant or the existence of a reasonable
16 program of inspection.

17 SECTION 94. That Section 39-5211, Idaho Code, be, and the same is hereby
18 amended to read as follows:

19 39-5211. QUALIFICATIONS OF APPLICANTS. To qualify for domestic vio-
20 lence grants under the provisions of this chapter, an applicant must:

- 21 (1) Propose to operate and provide an eligible project;
- 22 (2) Be a private, nonprofit corporation of the state of Idaho, or a pub-
23 lic entity of the state of Idaho;
- 24 (3) Provide matching moneys equal to twenty-five percent (25%) of the
25 amount of the grant. The applicant may contribute to or provide the required
26 local matching funds. The value of in-kind contributions and volunteer
27 labor from the community may be computed and included as part of the local
28 matching requirement;
- 29 (4) Require persons employed by or volunteering services to the project
30 to maintain the confidentiality of any information that would identify in-
31 dividuals served by the project; such information identifying individuals
32 served by the project shall be subject to disclosure according to ~~chapter 3,~~
33 title 9 chapter 1, title 74, Idaho Code;
- 34 (5) Require victims to reimburse the project monetarily or through vol-
35 unteer efforts for services provided as they are able to do so. Minimum re-
36 imbursement may be established by the council, with a sliding scale of reim-
37 bursement based on the victim's ability to pay;
- 38 (6) Provide a policy of nondiscrimination in its admissions and provi-
39 sion of services on the basis of race, religion, gender, color, age, marital
40 status, national origin or ancestry.

41 SECTION 95. That Section 39-5307, Idaho Code, be, and the same is hereby
42 amended to read as follows:

43 39-5307. ACCESS TO RECORDS. Any person, department, agency or commis-
44 sion authorized to carry out the duties enumerated in this chapter shall have
45 access to all relevant records, which shall be subject to disclosure accord-
46 ing to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, and shall only be
47 divulged with the written consent of the vulnerable adult or his legal rep-

1 representative. No medical records of any vulnerable adult may be divulged for
2 any purpose without the express written consent of such person or his legal
3 representative, or pursuant to other proper judicial process.

4 SECTION 96. That Section 39-5403, Idaho Code, be, and the same is hereby
5 amended to read as follows:

6 39-5403. CONSENT -- FILING AND NOTICE REQUIREMENTS. (1) Artificial
7 insemination shall not be performed upon a woman without her prior written
8 request and consent and the prior written request and consent of her husband.

9 (2) Whenever a child is born who may have been conceived by artificial
10 insemination, a copy of the request and consent required under subsection
11 (1) of this section shall be filed by the physician who performs the artifi-
12 cial insemination with the state registrar of vital statistics. The state
13 board of health and welfare shall have the authority to promulgate rules and
14 regulations and to prescribe methods and forms of reporting, and fees to
15 carry out the provisions of this act. Storage, retrieval and confidential-
16 ity of records shall be governed by ~~chapter 3, title 9~~ chapter 1, title 74,
17 Idaho Code.

18 (3) The information filed under subsection (2) of this section shall
19 be sealed by the state registrar and may be opened only upon an order of a
20 court of competent jurisdiction, except that pursuant to ~~chapter 3, title 9~~
21 chapter 1, title 74, Idaho Code, data contained in such records may be used
22 for research and statistical purposes.

23 (4) If the physician who performs the artificial insemination does not
24 deliver the child conceived as a result of the artificial insemination, it is
25 the duty of the mother and her husband to give that physician notice of the
26 child's birth. The physician who performs the artificial insemination shall
27 not be liable for noncompliance with subsection (2) of this section if the
28 noncompliance is a result of the failure of the mother and her husband to no-
29 tify the physician of the birth.

30 SECTION 97. That Section 39-5818, Idaho Code, be, and the same is hereby
31 amended to read as follows:

32 39-5818. INFORMATION OBTAINED -- PUBLIC RECORD. (1) Except as pro-
33 vided in subsection (2) of this section, information obtained by the de-
34 partment under the provisions of this chapter shall be deemed to be a public
35 record.

36 (2) A person regulated under the provisions of this chapter may desig-
37 nate a record, site license application, other information, or a portion of
38 a record, site license application, or other information furnished to or ob-
39 tained by the department or its agents, as being only for the use of the de-
40 partment and the panel. The material shall then be subject to disclosure ac-
41 cording to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

42 SECTION 98. That Section 39-7408B, Idaho Code, be, and the same is
43 hereby amended to read as follows:

44 39-7408B. SITE REVIEW PANELS -- MEMBERS, CHAIRMAN, QUORUM, MEETINGS,
45 STAFF. (1) A site review panel shall be established to insure public input in

1 the licensing process, to recommend to the director conditions which should
2 be included in a siting license and to recommend to the director whether a
3 particular facility should or should not be constructed, expanded or en-
4 larged.

5 (2) A panel shall consist of eight (8) members to be appointed as fol-
6 lows:

7 (a) Three (3) members shall be the director of the department of en-
8 vironmental quality or his designee, the director of the Idaho trans-
9 portation department or his designee and the director of the department
10 of water resources or his designee.

11 (b) One (1) member shall be a public member appointed by the governor.
12 The public member shall be an environmental professional, shall serve
13 as chairman of the panel and shall be a voting member. A member who is a
14 public member shall be appointed to serve on site review panels only un-
15 til the particular siting license application subject to their review
16 is approved, or until the application is rejected and is no longer sub-
17 ject to their review.

18 (c) Two (2) members shall be appointed by the city council of the city
19 located closest to or in which the commercial solid waste facility is
20 proposed to be located, at least one (1) of whom shall be a resident of
21 the city. The members serving pursuant to this subsection shall serve
22 until the particular siting license application subject to their review
23 is approved, or until the application is rejected and is no longer sub-
24 ject to their review.

25 (d) Two (2) members shall be appointed by the county commission and be
26 residents of the county where the commercial solid waste facility is
27 proposed to be located. The members serving pursuant to this subsection
28 shall serve until the particular siting license application subject to
29 their review is approved, or until the application is rejected and is no
30 longer subject to their review.

31 (e) A person nominated to represent a city or county shall not have a
32 conflict of interest, as that term is defined in section ~~59-703~~ 74-403,
33 Idaho Code, or derive any economic gain as that term is defined in sec-
34 tion ~~59-703~~ 74-403, Idaho Code, from the location or siting of the pro-
35 posed commercial solid waste facility.

36 (3) The director shall notify the city council of the nearest city and
37 the board of county commissioners of a siting license application filed with
38 the department, and shall instruct the city and county to appoint the neces-
39 sary members to a panel.

40 (4) Five (5) of the eight (8) members of the panel shall constitute a
41 quorum for the transaction of business of the panel and the concurrence of
42 five (5) members of the panel shall constitute a legal action of the panel,
43 provided that no meeting of the panel shall occur unless there are at least
44 as many members present representing the city and county as there are repre-
45 senting the state and the public as appointed pursuant to subsections (2) (a)
46 and (b) of this section. All meetings of the panel shall be conducted pur-
47 suant to the state open meeting law.

48 (5) The director shall make staff available to assist a panel in carry-
49 ing out its responsibilities.

1 (6) Members of the panel who are not state employees shall be entitled
2 to receive compensation as provided in section 59-509(b), Idaho Code.

3 SECTION 99. That Section 39-7908, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 39-7908. SITE REVIEW PANELS ESTABLISHED. (1) A site review panel shall
6 be established to ensure public input in the siting process and to recommend
7 to the director site approval, approval with conditions or rejection.

8 (2) A panel shall consist of eight (8) members to be appointed as fol-
9 lows:

10 (a) Three (3) members shall be the director of the department of en-
11 vironmental quality or his designee, the director of the department of
12 water resources or his designee, and the director of the department of
13 agriculture or his designee.

14 (b) One (1) member shall be a public member appointed by the governor.
15 The public member shall be an environmental professional, shall serve
16 as chairman of the panel and shall be a voting member. A member who is
17 a public member shall be appointed to serve on site review panels only
18 until the particular site application subject to their review is ap-
19 proved, or until the application is rejected and is no longer subject to
20 their review.

21 (c) Two (2) members shall be appointed by the city council of the city
22 located closest to, or in which the swine facility is proposed to be
23 located or expanded, provided the governing body of the city has signi-
24 fied compliance with this chapter as provided in section 39-7903, Idaho
25 Code. At least one (1) shall be a resident of the city. However, if two
26 (2) cities are equidistant from the proposed or expanding swine facil-
27 ity, plus or minus five (5) miles, the city council of each city shall
28 appoint one (1) member each to the site review panel, each of whom shall
29 be a resident of the city appointing them. The members serving pursuant
30 to this subsection shall serve until the particular site application
31 subject to their review is approved or it is rejected and is no longer
32 subject to their review.

33 (d) Two (2) members shall be appointed by the county commission and
34 be residents of the county where the swine facility is proposed to be
35 located or expanded, provided the board of county commissioners has
36 signified compliance with this chapter as provided in section 39-7903,
37 Idaho Code. The members serving pursuant to this subsection shall serve
38 until the particular site application subject to their review is ap-
39 proved, or until the application is rejected and is no longer subject to
40 their review.

41 (e) A person nominated to represent a city or county shall not have a
42 conflict of interest, as that term is defined in section ~~59-703~~ 74-403,
43 Idaho Code, or derive any economic gain as that term is defined in sec-
44 tion ~~59-703~~ 74-403, Idaho Code, from the location of the proposed or ex-
45 panding swine facility.

46 (3) The director shall notify the city council of the nearest city, or
47 cities if two (2) cities are within five (5) miles of the site of the proposed
48 facility, and the board of county commissioners in which the site is located,

1 of a site application filed with the department and shall instruct the city
2 or cities and county to appoint the necessary members to a panel.

3 (4) A majority of members of the panel shall constitute a quorum for the
4 transaction of business of the panel and the concurrence of a majority of the
5 panel shall constitute a legal action of the panel, provided that no meet-
6 ing of the panel shall occur unless there are at least as many members present
7 representing the city and county as there are representing the state and the
8 public as appointed pursuant to subsections (2) (a) and (b) of this section.
9 All meetings of the panel shall be conducted pursuant to the state open meet-
10 ing law.

11 (5) The director shall make staff available to assist the panel in car-
12 rying out its responsibilities.

13 (6) Members of the panel who are not state employees shall be entitled
14 to receive compensation as provided in section 59-509 (b) , Idaho Code.

15 SECTION 100. That Section 39-7914, Idaho Code, be, and the same is
16 hereby amended to read as follows:

17 39-7914. CONFIDENTIALITY OF RECORDS. Information obtained by a public
18 agency pursuant to this chapter or its associated rules is subject to public
19 disclosure pursuant to the provisions of ~~chapter 3, title 9~~ chapter 1, title
20 74, Idaho Code. Information submitted under a trade secret claim may be en-
21 titled to confidential treatment as provided in section ~~9-342A~~ 74-114, Idaho
22 Code, and rules of the department of environmental quality.

23 SECTION 101. That Section 39-8206, Idaho Code, be, and the same is
24 hereby amended to read as follows:

25 39-8206. CLAIM OF PARENTAL RIGHTS -- PROCEDURE. (1) A parent of the
26 child may make a claim of parental rights of an abandoned child, abandoned
27 pursuant to the provisions of this chapter, by filing a notice of claim of
28 parental rights with the vital statistics unit of the department of health
29 and welfare. The vital statistics unit of the department of health and wel-
30 fare shall maintain an abandoned child registry for this purpose which shall
31 be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74,
32 Idaho Code. The department shall provide forms for the purpose of filing
33 a claim of parental rights, and the forms shall be made available through
34 the vital statistics unit of the Idaho department of health and welfare and
35 in the office of the county clerk in every county of this state. Any parent
36 claiming a parental right of an abandoned child, abandoned pursuant to the
37 provisions of this chapter, shall file the form with the vital statistics
38 unit of the department of health and welfare. The form must be filled out
39 completely and provide the name and address for service of the person assert-
40 ing the parental claim and set forth the approximate date the child was left
41 in a safe haven. The form must be signed by the person claiming the parental
42 right and be witnessed before a notary public. The department shall record
43 the date and time the claim of parental rights is filed with the department.
44 The claim shall be deemed to be duly filed with the department as of the date
45 and time recorded on the claim by the department. To be valid, a claim of
46 parental rights must be filed before an order terminating parental rights is
47 entered by the court. A parent that fails to file a claim of parental rights

1 prior to entry of an order terminating their parental rights is deemed to
2 have abandoned the child and waived and surrendered any right in relation
3 to the child, including the right to notice of any judicial proceeding in
4 connection with the termination of parental rights or adoption of the child.
5 Registration of notice of commencement of paternity proceedings pursuant to
6 chapter 15, title 16, Idaho Code, shall not satisfy the requirements of this
7 section.

8 (2) Prior to the time set for hearing on the petition to terminate
9 parental rights filed by the department of health and welfare, and prior to
10 entry of an order terminating parental rights by the court, the department
11 of health and welfare shall obtain and file with the court a certificate from
12 the vital statistics unit of the department of health and welfare, signed by
13 the state registrar of vital statistics, which certificate shall state that
14 a diligent search has been made of the registry of claims of parental rights
15 of abandoned children, abandoned pursuant to this chapter, and shall set
16 forth the results of that search.

17 (3) If a claim of parental rights is made before an order terminating
18 parental rights is entered by the court, notice pursuant to section 16-2007,
19 Idaho Code, will be required and the court shall hold the action for invol-
20 untary termination of parental rights in abeyance for a period of time not
21 to exceed sixty (60) days unless otherwise ordered by the court. During that
22 period:

23 (a) The court shall order genetic testing to establish maternity or pa-
24 ternity, at the expense of the person or persons claiming the parental
25 right.

26 (b) The department of health and welfare shall conduct an investiga-
27 tion pursuant to section 16-2008, Idaho Code, and in those cases where
28 a guardian ad litem has been appointed, the guardian ad litem shall have
29 all rights, powers and duties as provided for in chapter 16, title 16,
30 Idaho Code, and as provided for in chapter 20, title 16, Idaho Code.

31 (c) When indicated as a result of the investigation, a shelter care
32 hearing shall be conducted by the court in accordance with section
33 16-1615, Idaho Code, within forty-eight (48) hours, or at an earlier
34 time if ordered by the court, to determine whether the child should re-
35 main in the physical custody of the department or be released to a parent
36 or other third party.

37 (d) Further proceedings shall be conducted as the court determines
38 appropriate. However, where a claim of parental rights is made before
39 an order terminating parental rights is entered by the court, a parent
40 shall not be found to have neglected or abandoned a child placed in ac-
41 cordance with this chapter solely because the child was left with a safe
42 haven.

43 (4) If there is no showing that a parent has claimed a parental right to
44 the child, the department of health and welfare shall file with the court a
45 certificate from the vital statistics unit of the department of health and
46 welfare, signed by the state registrar of vital statistics, stating that a
47 diligent search has been made of the registry of parental claims for children
48 abandoned pursuant to the provisions of this chapter and that no parental
49 claim has been made. The certificate shall be filed with the court prior to
50 the entrance of the final order of termination of parental rights.

1 SECTION 102. That Section 40-1306C, Idaho Code, be, and the same is
2 hereby amended to read as follows:

3 40-1306C. HIGHWAY DISTRICT RECORDS -- OPEN TO THE PUBLIC. All records
4 of the highway district are open to the public, except as provided by law.
5 With respect to highway district records, ~~sections 9-337 through 9-351~~
6 chapter 1, title 74, Idaho Code, provides definitions, procedure for the
7 right to examine, requests for the examination, records exempt from disclo-
8 sure, copy fees, separation of exempt and nonexempt records, enforcement
9 rights, court orders and penalties.

10 SECTION 103. That Section 40-1309, Idaho Code, be, and the same is
11 hereby amended to read as follows:

12 40-1309. CORPORATE POWERS OF HIGHWAY DISTRICTS. Each highway district
13 has power:

14 (1) To sue and be sued.

15 (2) To purchase and hold lands, make contracts, purchase and hold per-
16 sonal or real property as may be necessary or convenient for the purposes
17 of this chapter, and to sell and exchange any real or personal property
18 other than public lands which by the constitution and laws of the state are
19 placed under the jurisdiction of the state land board. Personal or real
20 property, no longer useful to the district, not exceeding five thousand dol-
21 lars (\$5,000) in value may be sold by the highway commissioners at a private
22 sale or at any regular board meeting without advertisement. Before dispos-
23 ing of all other personal or real property exceeding five thousand dollars
24 (\$5,000) in value, the highway district commissioners shall first conduct
25 a public hearing for which notice shall be published in accordance with the
26 provisions of section 40-206, Idaho Code, and at which hearing any person
27 interested may appear and show cause that such personal or real property
28 is still useful to the district and that the sale or exchange should not be
29 made. Following testimony by all interested persons at the public hearing,
30 the highway district commissioners may adopt a resolution finding that such
31 personal or real property is no longer useful to the district and finding
32 that such personal or real property should be sold or exchanged and estab-
33 lishing procedures for the sale of such personal or real property including,
34 but not limited to, the date and time of the sale and whether the sale will be
35 by live public auction, by receipt of sealed bids or by some other reasonably
36 commercial means. The hearing and sale or exchange shall not be conducted at
37 the same regular meeting and, except as otherwise provided by law, the only
38 notice required for such sale or exchange shall be as set forth in section
39 ~~67-2343~~ 74-204, Idaho Code. Provided however, that before the district
40 disposes of surplus real property at public sale, the district shall first
41 notify any person who owns real property that is contiguous with the surplus
42 real property of the district that such person has first option to purchase
43 the surplus real property for an amount not less than the current appraised
44 value. If more than one (1) adjoining owner wants to purchase the surplus
45 real property, a private auction shall be held for such parties. If no owner
46 of adjoining property exercises his or her option to buy, the district may
47 proceed to public sale. Highway district commissioners, highway directors,
48 employees, and their families must be personally disinterested, directly or

1 indirectly, in the purchase of property for the use of the highway district,
 2 or in the sale of any property belonging to the highway district, or in any
 3 contract made by the highway district or other person on behalf of the high-
 4 way district unless otherwise authorized by law.

5 (3) To levy and apply ad valorem taxes for purposes under its exclusive
 6 jurisdiction as are authorized by law.

7 SECTION 104. That Section 40-2004, Idaho Code, be, and the same is
 8 hereby amended to read as follows:

9 40-2004. RELOCATION EXPENSE -- COMPENSATION OPTIONS -- LIMIT OF COM-
 10 PENSATION FOR BUSINESS OR FARM RELOCATIONS. (1) As a part of the cost of any
 11 public program or project, any agency using any funds for public purposes
 12 shall compensate a displaced person for his actual and reasonable expense in
 13 moving himself, family, business or farm operation, including moving per-
 14 sonal property, and for any actual direct losses of tangible personal prop-
 15 erty as the result of moving or discontinuing a business or farm operation,
 16 but not to exceed an amount equal to the reasonable expenses that would have
 17 been required to relocate the property, as determined by the agency, and for
 18 actual reasonable expenses in searching for a replacement business or farm.
 19 However, the compensation authorized by this section for actual and reason-
 20 able moving expenses, actual direct losses of tangible personal property,
 21 and expenses in searching for a replacement farm or business shall be limited
 22 to relocating a displaced person, family, business or farm operation within
 23 a reasonable distance from the location previously occupied and from which
 24 the displaced person has been required to move.

25 (2) Any displaced person who moves from a dwelling who elects to accept
 26 the payments authorized by this subsection in lieu of the payments autho-
 27 rized by subsection (1) of this section shall receive a moving expense al-
 28 lowance, determined according to regulations and schedules established by
 29 the agency, not to exceed three hundred dollars (\$300), and in addition a
 30 dislocation allowance of two hundred dollars (\$200).

31 (3) Any displaced person who moves or discontinues his business or farm
 32 operation who elects to accept the payment authorized by this subsection in
 33 lieu of the payment authorized by subsection (1) of this section, shall re-
 34 ceive a fixed relocation payment in an amount equal to the average annual net
 35 earnings of the business or farm operation, except that the payment shall
 36 not be less than two thousand five hundred dollars (\$2,500) nor more than
 37 ten thousand dollars (\$10,000). In the case of a business, no payment shall
 38 be made under this subsection unless the agency is satisfied that the busi-
 39 ness cannot be relocated without a substantial loss of patronage, and is not
 40 a part of a commercial enterprise having at least one (1) other establishment
 41 not being acquired which is engaged in the same or similar business. In ad-
 42 dition to the other requirements of this chapter, to be eligible for the pay-
 43 ment authorized by this subsection the business or farm operation must make
 44 its financial statements, accounting records, and state income tax returns
 45 available to the agency for audit for confidential use in determining the
 46 payment or payments authorized by this subsection. Such financial state-
 47 ments, accounting records and state income tax returns shall be subject to
 48 disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

1 (4) If any agency determines that property, contiguous with property
2 acquired, owned or occupied by an individual, family, business or farm oper-
3 ation, has been damaged as the result of a public program or project, it shall
4 offer the individual, family, business or farm operation the same compensa-
5 tion as it might offer to a displaced person under subsection (1), (2) or (3)
6 of this section and under sections 40-2005 and 40-2007, Idaho Code.

7 SECTION 105. That Section 41-227, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 41-227. EXAMINATION REPORT. (1) The director or his examiner shall
10 make a full and true written report of every examination made by him under
11 this chapter, and shall verify the report by his oath.

12 (2) The report shall comprise only facts appearing upon the books, pa-
13 pers, records or documents of the person being examined, or ascertained from
14 testimony of individuals under oath concerning the affairs of such person,
15 together with such conclusions and recommendations as may reasonably be war-
16 ranted from such facts.

17 (3) Prior to a hearing and prior to any modifications the report shall
18 be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74,
19 Idaho Code.

20 (4) No later than sixty (60) days following completion of the examina-
21 tion, the examiner in charge shall file with the department a verified writ-
22 ten report of examination under oath. Upon receipt of the verified report,
23 the department shall transmit the report to the company examined, together
24 with a notice which shall afford the company examined a reasonable opportu-
25 nity of not more than thirty (30) days to make a written submission or rebut-
26 tal with respect to any matters contained in the examination report.

27 (5) Within thirty (30) days of the end of the period allowed for the re-
28 ceipt of written submissions or rebuttals, the director shall fully consider
29 and review the report, together with any written submissions or rebuttals
30 and any relevant portions of the examiner's work papers, and enter an order:

31 (a) Adopting the examination report as filed or with modifications or
32 corrections. If the examination report reveals that the company is op-
33 erating in violation of any law, regulation or prior order of the direc-
34 tor, the director may order the company to take any action the director
35 considers necessary and appropriate to cure such violation;

36 (b) Rejecting the examination report with directions to the examiners
37 to reopen the examination for purposes of obtaining additional data,
38 documentation or information, and refileing pursuant to subsection (2)
39 of this section; or

40 (c) Calling for an investigatory hearing with no less than twenty (20)
41 days' notice to the company for purposes of obtaining additional docu-
42 mentation, data, information and testimony.

43 (6) (a) All orders entered pursuant to subsection (5) (a) of this sec-
44 tion shall be accompanied by findings and conclusions resulting from
45 the director's consideration and review of the examination report, rel-
46 evant examiner work papers and any written submissions or rebuttals.
47 Any such order shall be considered a final order and may be appealed
48 pursuant to sections 67-5270 through 67-5279, Idaho Code, and shall be
49 served upon the company by certified mail, together with a copy of the

1 adopted examination report. Within thirty (30) days of the issuance of
2 the adopted report, the company shall file affidavits executed by each
3 of its directors stating under oath that they have received a copy of the
4 adopted report and related orders.

5 (b) Any hearing conducted under subsection (5) (c) of this section by
6 the director or authorized representative, shall be conducted in accor-
7 dance with the provisions of chapter 52, title 67, Idaho Code, as a non-
8 adversarial confidential investigatory proceeding as necessary for the
9 resolution of any inconsistencies, discrepancies or disputed issues
10 apparent upon the face of the filed examination report or raised by, or
11 as a result of, the director's review of relevant work papers or by the
12 written submission or rebuttal of the company. Within twenty (20) days
13 of the conclusion of any such hearing, the director shall enter an order
14 pursuant to the provisions of subsection (5) (a) of this section.

15 (c) The director shall not appoint a contract examiner or an employee of
16 the department as an authorized representative to conduct the hearing.
17 Nothing contained in this section shall require the department to dis-
18 close any information or records which would indicate or show the con-
19 tent of any investigation or activity of a criminal justice agency, ex-
20 cept to the extent that the director relied upon information furnished
21 to the director by such criminal justice agency in making his decision.

22 (7) The report when so verified and filed shall be admissible in evi-
23 dence in any action or proceeding brought by the director against the person
24 examined, or against its officers, employees or agents, and shall be pre-
25 sumptive evidence of the material facts stated therein. The director or his
26 examiners may at any time testify and offer other proper evidence as to in-
27 formation secured or matters discovered during the course of an examination,
28 whether or not a written report of the examination has been either made, fur-
29 nished or filed in the department.

30 (8) After an order is entered under the provisions of subsection (5) (a)
31 of this section, the director may publish the report or the results of the
32 examination as contained therein which report or results are a public record
33 and shall be exempt from the exemptions from disclosure provided in ~~chapter~~
34 3, title 9 chapter 1, title 74, Idaho Code.

35 (9) Nothing contained in this chapter shall prevent or be construed
36 as prohibiting the director from disclosing the content of an examination
37 report, preliminary examination report or results, or any matter relating
38 thereto, to the insurance department of this or any other state or country,
39 or to law enforcement officials of this or any other state or agency of the
40 federal government at any time, so long as the agency or office receiving the
41 report or matters relating thereto agrees in writing to hold it confidential
42 and in a manner consistent with this chapter.

43 (10) All working papers, recorded information, documents and copies
44 thereof produced by, obtained by or disclosed to the director or any other
45 person in the course of an examination made under the provisions of this
46 chapter shall be made available to the person or company which was the sub-
47 ject of the examination in proceedings pursuant to chapter 52, title 67,
48 Idaho Code, but shall otherwise be held by the director as a record not re-
49 quired to be made public pursuant to exemptions from disclosure provided in
50 ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

1 SECTION 106. That Section 41-249, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 41-249. SHARING OF INFORMATION AMONG GOVERNMENTAL AGENCIES AND THE
4 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS. (1) Any document, report,
5 or other recorded information provided to the director by any federal, state
6 or foreign regulatory or law enforcement agency, or any combination thereof,
7 or by the national association of insurance commissioners (NAIC), which is
8 marked "confidential" or "for regulator use only" or by similar terms or
9 concerning which the entity requires written assurance that the director
10 maintain such information in confidence before the entity will release the
11 information, may be maintained by the director on a confidential basis and is
12 not required to be disclosed to the public.

13 (2) The director may provide any document, report, or other recorded
14 information to any federal, state or foreign regulatory or law enforcement
15 agency, or any combination thereof, or to the NAIC, which is marked "confi-
16 dential" or "for regulator use only" or by similar terms or concerning which
17 the director requires written assurance that the entity maintain such infor-
18 mation in confidence before he will release it to such entity.

19 (3) The director is authorized to enter into agreements with other gov-
20 ernments, agencies, or any combination thereof, or with the NAIC, in connec-
21 tion with his duties and responsibilities pursuant to this section.

22 (4) The application of this section shall not prevent an insurance com-
23 pany or producer or other licensee from obtaining information used by the de-
24 partment of insurance in making regulatory decisions or taking regulatory
25 action affecting the company consistent with ~~chapter 3, title 9~~ chapter 1,
26 title 74, Idaho Code, and title 41, Idaho Code.

27 SECTION 107. That Section 41-296, Idaho Code, be, and the same is hereby
28 amended to read as follows:

29 41-296. CONFIDENTIALITY -- COMPULSORY TESTIMONY. (1) The department
30 of insurance, state fire marshal or authorized agency described in section
31 41-291, Idaho Code, which has received any information furnished pursuant to
32 section 41-258, 41-290 or 41-292, Idaho Code, shall hold the information and
33 the information shall be subject to disclosure according to ~~chapter 3, title~~
34 9 chapter 1, title 74, Idaho Code.

35 (2) Any authorized agency referred to in section 41-291, Idaho Code, or
36 their personnel, may be required to testify in any litigation in which the
37 insurance company at interest is named as a party, if such testimony is not
38 otherwise privileged by law.

39 SECTION 108. That Section 41-335, Idaho Code, be, and the same is hereby
40 amended to read as follows:

41 41-335. ANNUAL STATEMENT. (1) Each authorized insurer shall annually
42 on or before March 1, or within any extension of time therefor, not to ex-
43 ceed thirty (30) days, which the director for good cause may have granted,
44 file with the director a full and true statement of its financial condition,
45 transactions and affairs as of the preceding December 31. Unless otherwise
46 required by the director, the statement is to be prepared in accordance with

1 the national association of insurance commissioners' (NAIC) annual state-
2 ment instructions and the NAIC's accounting practices and procedures man-
3 ual, utilizing the version of the manual effective January 1, 2004, and any
4 subsequent revisions that are adopted for use by the director by rule, ad-
5 ministrative order or bulletin, and is to be submitted on the NAIC annual
6 statement blank form, and any statement, form or other information relat-
7 ing to the compensation of any officer, director or employee will be deemed
8 confidential. At the seasonable request of a domestic insurer the director
9 shall furnish to the insurer the blank form of annual statement to be used by
10 it. The statement shall be verified by the oath of the insurer's president
11 or vice president, and secretary or actuary as applicable, or if a reciprocal
12 insurer, by the oath of the attorney in fact or its like officers if a corpo-
13 ration.

14 (2) The statement of an alien insurer shall be verified by its United
15 States manager or other officer duly authorized, and shall relate only to the
16 insurer's transactions and affairs in the United States unless the director
17 requires otherwise. If the director requires a statement as to the insurer's
18 affairs throughout the world, the insurer shall file such statement with the
19 director as soon as reasonably possible.

20 (3) Any insurance company licensed to do business in this state which
21 neglects to file or fails to file in the time prescribed by statute its annual
22 statement or supplemental summary statement requested by the director shall
23 be subject to a penalty of twenty-five dollars (\$25.00) per day for each day
24 in default. This penalty will be in addition to any administrative penalty
25 which may be assessed pursuant to sections 41-327 and 41-324, Idaho Code.

26 (4) Each domestic insurer authorized to do business in this state shall
27 annually, on or before March 1 of each year, file with the NAIC its annual fi-
28 nancial statement in a form prescribed by the director along with any addi-
29 tional filings prescribed by the director for the preceding year. The infor-
30 mation filed with the NAIC shall be in the same format and scope as that re-
31 quired by this code. Any amendments or addenda to the annual statement shall
32 also be filed with the NAIC.

33 (5) At time of filing, the insurer shall pay to the director the fee for
34 filing its statement as prescribed by rule of the department of insurance.

35 (6) The financial statements filed with the director pursuant to this
36 section, with the exception of information relating to officer, director,
37 or employee compensation referred to in subsection (1) of this section, are
38 public records and available to the public, notwithstanding the exemptions
39 from disclosure provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho
40 Code.

41 SECTION 109. That Section 41-1019, Idaho Code, be, and the same is
42 hereby amended to read as follows:

43 41-1019. NOTIFICATION TO DIRECTOR OF TERMINATION. (1) An insurer
44 or authorized representative of the insurer that terminates the appoint-
45 ment, employment, contract or other insurance business relationship with
46 a producer shall notify the director within thirty (30) days following the
47 effective date of the termination, using a format prescribed by the direc-
48 tor, if the reason for termination is one of the reasons set forth in section
49 41-1016, Idaho Code, or the insurer has knowledge that the producer was found

1 by a court, governmental body or self-regulatory organization authorized by
2 law to have engaged in any of the activities set forth in section 41-1016,
3 Idaho Code. Upon the written request of the director, the insurer shall pro-
4 vide additional information, documents, records or other data pertaining to
5 the termination or activity of the producer.

6 (2) An insurer or authorized representative of the insurer that termi-
7 nates the appointment, employment, contract or other insurance business re-
8 lationship with a producer for any reason not set forth in section 41-1016,
9 Idaho Code, shall notify the director within thirty (30) days following the
10 effective date of the termination, using a format prescribed by the direc-
11 tor. Upon written request of the director, the insurer shall provide addi-
12 tional information, documents, records or other data pertaining to the ter-
13 mination.

14 (3) The insurer or authorized representative of the insurer shall
15 promptly notify the director in a format acceptable to the director if, upon
16 further review or investigation, the insurer discovers additional infor-
17 mation that would have been reportable to the director in accordance with
18 subsection (1) of this section.

19 (4) A copy of any notification shall be provided to the producer as fol-
20 lows:

21 (a) Within fifteen (15) days after making the notification required by
22 subsections (1), (2) and (3) of this section, the insurer shall mail a
23 copy of the notification to the producer at his or her last known ad-
24 dress. If the producer is terminated for cause for any other reasons
25 listed in section 41-1016, Idaho Code, the insurer shall provide a copy
26 of the notification to the producer at his or her last known address
27 by certified mail, return receipt requested, postage prepaid or by
28 overnight delivery using a nationally recognized carrier.

29 (b) Within thirty (30) days after the producer has received the origi-
30 nal or additional notification, the producer may file written comments
31 concerning the substance of the notification with the director. The
32 producer shall, by the same means, simultaneously send a copy of the
33 comments to the reporting insurer, and the comments shall become a part
34 of the director's file and shall accompany every copy of a report dis-
35 tributed or disclosed for any reason about the producer as permitted
36 under subsection (6) of this section.

37 (5) Immunities.

38 (a) In the absence of actual malice, an insurer, the authorized rep-
39 resentative of the insurer, a producer, the director, or an organiza-
40 tion of which the director is a member and that compiles information and
41 makes it available to other insurance directors or regulatory or law en-
42 forcement agencies, shall not be subject to civil liability, and a civil
43 cause of action of any nature shall not arise against these entities or
44 their respective agents or employees as a result of any statement or in-
45 formation required by or provided pursuant to this section or any in-
46 formation relating to any statement that may be requested in writing by
47 the director from an insurer or producer or as a result of any statement
48 by a terminating insurer or producer to an insurer or producer limited
49 solely and exclusively to whether a termination for cause under subsec-
50 tion (1) of this section was reported to the director, provided that the

1 propriety of any termination for cause under subsection (1) of this sec-
2 tion is certified in writing by an officer or authorized representative
3 of the insurer or producer terminating the relationship.

4 (b) In any action brought against a person that may have immunity under
5 paragraph (a) of this subsection for making any statement required by
6 this section or providing any information relating to any statement
7 that may be requested by the director, the party bringing the action
8 shall plead specifically in any allegation that paragraph (a) of this
9 subsection does not apply because the person making the statement or
10 providing the information did so with actual malice.

11 (c) Paragraph (a) or (b) of this subsection shall not abrogate or modify
12 any existing statutory or common law privileges or immunities.

13 (6) Confidentiality.

14 (a) Any documents, materials or other information obtained by the di-
15 rector in an investigation pursuant to this section shall be exempt from
16 public disclosure under ~~chapter 3, title 9~~ chapter 1, title 74, Idaho
17 Code.

18 (b) In order to assist in the performance of the director's duties under
19 this chapter, the director:

20 (i) May share documents, materials or other information, in-
21 cluding confidential and privileged documents and materials or
22 information subject to paragraph (a) of this subsection, with
23 other state, federal and international regulatory agencies and
24 law enforcement authorities, and with the national association
25 of insurance commissioners, its affiliates or subsidiaries, pro-
26 vided that the recipient agrees to maintain the confidentiality
27 and privileged status of the documents, materials or other infor-
28 mation;

29 (ii) May receive documents, materials or information, including
30 otherwise confidential and privileged documents, materials or in-
31 formation, from the national association of insurance commis-
32 sioners, its affiliates or subsidiaries and from regulatory agencies
33 and law enforcement authorities of other foreign or domestic ju-
34 risdictions, and shall maintain as confidential or privileged any
35 documents, materials or information received with notice or with
36 the understanding that they are confidential or privileged under
37 the laws of the jurisdiction that is the source of the documents,
38 materials or information; and

39 (iii) May enter into agreements governing sharing and use of in-
40 formation consistent with this subsection.

41 (c) No waiver of any applicable privilege or claim of confidentiality
42 in the documents, materials or information shall occur as a result of
43 disclosure to the director under this section or as a result of sharing
44 as authorized in paragraph (b) of this subsection.

45 (d) Nothing in this chapter shall prohibit the director from releas-
46 ing final adjudicated actions, including for cause terminations that
47 are open to public inspection pursuant to ~~chapter 3, title 9~~ chapter 1,
48 title 74 and title 41, Idaho Code, to a database or other clearinghouse
49 service maintained by the national association of insurance commis-
50 sioners or its affiliates or subsidiaries.

1 (7) Penalties for failing to report. An insurer, the authorized repre-
2 sentative of the insurer, or a producer who fails to report as required under
3 the provisions of this section or who is found by a court of competent juris-
4 diction to have reported with actual malice may, after notice and hearing,
5 have his license or certificate of authority suspended or revoked and may be
6 fined in accordance with section 41-1016 or 41-327, Idaho Code.

7 SECTION 110. That Section 41-1440, Idaho Code, be, and the same is
8 hereby amended to read as follows:

9 41-1440. HEARINGS. (1) Any person aggrieved by any rate charged, rat-
10 ing plan, rating system, or underwriting rule followed or adopted by an in-
11 surer or rating organization may himself or by his authorized representative
12 make written request of the insurer or rating organization to review the man-
13 ner in which the rate, plan, system, or rule has been applied with respect
14 to insurance afforded him. If the request is not granted within thirty (30)
15 days after it is made, the requestor may treat it as rejected. Any person ag-
16 grieved by the refusal of an insurer or rating organization to grant the re-
17 view requested, or by the failure or refusal to grant all or part of the re-
18 lief requested, may file a written complaint and request for hearing with the
19 director, specifying the grounds relied upon. If the director has already
20 disposed of the issue as raised by a similar complaint, he may deny the hear-
21 ing. If the director believes that probable cause for the complaint does not
22 exist or that the complaint is not made in good faith, he shall deny the hear-
23 ing. Otherwise, and if he also finds that the complaint charges a violation
24 of this chapter and that the complainant would be aggrieved if the violation
25 is proven, he shall proceed as provided in subsection (2) of this section.

26 (2) If after examination of an insurer, rating organization, advi-
27 sory organization, or group, association or other organization of insurers
28 which engages in joint underwriting or joint reinsurance, or upon the basis
29 of other information, or upon sufficient complaint as provided in subsec-
30 tion (1) of this section, the director has good cause to believe that such
31 insurer, organization, group or association, or any rate, rating plan or
32 rating system made or used by any such insurer or rating organization, does
33 not comply with the requirements and standards of this chapter applicable
34 to it, he shall, unless he has good cause to believe such noncompliance is
35 willful, give notice in writing to such insurer, organization, group or as-
36 sociation stating therein in what manner and to what extent noncompliance is
37 alleged to exist and specifying therein a reasonable time, not less than ten
38 (10) days thereafter, in which the noncompliance may be corrected. Notices
39 under this section shall be subject to disclosure according to ~~chapter 3,~~
40 ~~title 9~~ chapter 1, title 74, Idaho Code, unless a hearing is held under sub-
41 section (3) of this section.

42 (3) If the director has good cause to believe that such noncompliance is
43 willful, or if within the period prescribed by the director in the notice re-
44 quired by subsection (2) of this section, the insurer, organization, group
45 or association does not make such changes as may be necessary to correct the
46 noncompliance specified by the director or establish to the satisfaction of
47 the director that such specified noncompliance does not exist, then the di-
48 rector may hold a public hearing in connection therewith in accordance with
49 chapter 2, title 41, Idaho Code. If no notice has been given as provided in

1 subsection (2) of this section, the notice shall state in what manner and to
2 what extent noncompliance is alleged to exist. The hearing shall not con-
3 sider any subject not specified in the notice required by subsection (2) of
4 this section.

5 (4) If after a hearing pursuant to subsection (3) of this section, the
6 director finds:

7 (a) That any rate, rating plan or rating system violates the applicable
8 provisions of this chapter, he may issue an order to the insurer, or rat-
9 ing organization, group or association which has been the subject of the
10 hearing specifying in what respects such violation exists and requiring
11 compliance within a reasonable time thereafter.

12 (b) That an insurer, rating organization, advisory organization, or a
13 group, association or other organization of insurers which engages in
14 joint underwriting or joint reinsurance, is in violation of the appli-
15 cable provisions of this chapter other than the provisions dealing with
16 rates, rating plans or rating systems, he may issue an order to such in-
17 surer, organization, group or association which has been the subject of
18 the hearing specifying in what respects such violation exists and re-
19 quiring compliance within a reasonable time thereafter.

20 (c) That any such violation by an insurer or rating organization which
21 has been the subject of hearing was willful, he may suspend or revoke, in
22 whole or in part, the certificate of authority of such insurer or the li-
23 cense of such rating organization with respect to the class of insurance
24 which has been a subject of the hearing.

25 (d) That any rating organization has willfully engaged in any fraudu-
26 lent or dishonest act or practice, he may suspend or revoke, in whole
27 or in part, the license of such organization in addition to any other
28 penalty provided in this chapter.

29 (5) Except as otherwise provided in this chapter, all proceedings in
30 connection with the denial, suspension or revocation of a license or cer-
31 tificate of authority shall be conducted in accordance with the provisions
32 of chapters 2 and 3, title 41, Idaho Code, and the director shall have all the
33 powers granted to him therein.

34 SECTION 111. That Section 41-2710, Idaho Code, be, and the same is
35 hereby amended to read as follows:

36 41-2710. REQUIREMENTS FOR AGENTS. (1) A title insurance agent is a
37 person owning or leasing separately or with another licensed agent a com-
38 plete set of tract indexes and abstract records of each county for which
39 policies are written and authorized in writing by a title insurer to solicit
40 insurance, issue or countersign policies, or otherwise engage in the title
41 insurance business. A title insurer shall not allow or permit any person,
42 firm, association or corporation to act as its agent in relation to the is-
43 suance of any certificate, title insurance policy, or other underwriting
44 contract unless such person, firm, association or corporation shall first
45 have obtained a title insurance agent's license for each county for which
46 policies are to be written from the director of the department of insurance.
47 No person, firm, association or corporation shall act within this state as
48 such agent for any title insurer without first having obtained a license from

1 the director of insurance and filed a bond or cash deposit in lieu thereof as
2 required herein.

3 (2) A separate agent's license for each county shall be issued by the
4 director of the department of insurance upon due showing filed by the appli-
5 cant upon forms to be provided by the director of the department of insurance
6 and payment of a fee of fifty dollars (\$50.00), upon oath, that such appli-
7 cant if an individual, is a bona fide resident of Idaho, if a firm or associ-
8 ation is composed wholly of Idaho residents, or if a corporation is duly au-
9 thorized or qualified to do business in the state, that the individual agent
10 (or if a corporation or association, its managerial personnel who are going
11 to exercise the license privilege) has reasonable experience or instruction
12 in the field of title examinations and title insurance and the insurance laws
13 of Idaho, that the applicant owns or leases, separately or with another, and
14 maintains an adequate, complete set of tract indexes and abstract records of
15 each county wherein he proposed to do business, and such application shall
16 be endorsed by the title insurer with whom he proposed to do business that
17 the proposed agent is known to have a good reputation and is worthy of public
18 trust and that such title insurer knows of no fact or condition that would
19 disqualify the agent from receiving the permit. An agent's license shall
20 continue from the date issued until the first day of January of each year and
21 shall be automatically renewed thereon upon the payment of the annual fee of
22 fifty dollars (\$50.00) by the agent, unless terminated as herein provided by
23 the director of the department of insurance for cause. If the filing fee is
24 not promptly paid, the applicant shall be subject to a late filing fee of two
25 dollars (\$2.00) a day up to a maximum of one hundred dollars (\$100).

26 (3) Upon the termination of any agency by a title insurer or by the agent
27 terminating, the title insurer shall immediately notify the director of the
28 department of insurance in writing and a title insurance agent shall forth-
29 with notify the director of the department of insurance of the name of a new
30 title insurer with whom he proposes to do business, with the new title in-
31 surer's endorsement upon said notification. No title insurer shall allow
32 the license of an agent for which it has vouched to continue unless all of the
33 foregoing conditions have been complied with.

34 (4) The license of any title insurance agent may be denied, or the li-
35 cense suspended, revoked or renewal thereof refused, by the director of the
36 department of insurance after notice and hearing if he finds that such li-
37 cense holder has:

38 (a) Willfully violated any provisions of title 41, Idaho Code, or the
39 rules issued thereunder;

40 (b) Has intentionally made a material misstatement in the application
41 for such license;

42 (c) Has obtained or attempted to obtain such license by fraud or misrep-
43 resentation;

44 (d) Has misappropriated or converted to his own use or illegally with-
45 held money belonging to a title insurance company, an insured or any
46 other person;

47 (e) Has demonstrated his lack of trustworthiness or competence to act
48 as such agent or been guilty of fraudulent or dishonest practices;

1 (f) Has materially misrepresented the terms and conditions of a title
2 insurance policy or contract, or the condition of the title represented
3 thereby; or

4 (g) Has failed to maintain a separate and distinct accounting of es-
5 crowed funds and has failed to maintain an escrow bank account or ac-
6 count separate and apart from all other accounts.

7 (5) Before any license is denied, suspended or revoked or renewal re-
8 fused, the director shall give thirty (30) days' written notice by regis-
9 tered mail to the licensee or applicant and the title insurer represented by
10 the agent, and if said agent or title insurer desires, to set a date of hear-
11 ing and to allow the production of evidence by said parties or any other in-
12 terested person as to the matter. The right and remedies of the parties shall
13 be as set forth in chapter 52, title 67, Idaho Code. Any decision of the di-
14 rector of the department of insurance shall be made in writing and filed in
15 his office and mailed to the title insurer and agent involved.

16 (6) As a condition of obtaining said license, the individual to be li-
17 censed for himself or the entity to be licensed for each employee escrow of-
18 ficer shall obtain, file and pay for a surety bond as provided for an escrow
19 officer.

20 (7) Regular examination of the tract indexes, abstract records, and any
21 other records to ascertain compliance with title 41, Idaho Code, and related
22 rules, of a title agent after the first examination thereof by the director
23 shall be limited to not more than every fifth year, unless the agent other-
24 wise requests or the director has cause to believe the same does not comply
25 with this chapter or the rules thereunder. The director shall prepare an ex-
26 amination report following each examination and shall provide such report to
27 the title agent being examined affording the person up to twenty-eight (28)
28 days within which to review, comment and request a hearing. Unless a hear-
29 ing is requested in accordance with chapter 2, title 41, Idaho Code, the ex-
30 amination report shall be deemed available to the public notwithstanding the
31 exemptions from disclosure provided in ~~chapter 3, title 9~~ chapter 1, title
32 74, Idaho Code. In addition, if the title agency affirmatively requests,
33 any reply to the examination report shall be deemed available to the public
34 notwithstanding the exemptions from disclosure provided in ~~chapter 3, ti-~~
35 ~~tle 9~~ chapter 1, title 74, Idaho Code. However, all working papers and other
36 records produced by, obtained by or disclosed to the director or any other
37 person in the course of an examination hereunder shall be made available to
38 the person or company which was the subject of the examination in any pro-
39 ceeding pursuant to chapter 2, title 41, Idaho Code, but shall otherwise be
40 held by the director as an exempt record not required to be made public.

41 SECTION 112. That Section 41-3311, Idaho Code, be, and the same is
42 hereby amended to read as follows:

43 41-3311. HEARINGS. In all proceedings and judicial reviews thereof
44 under sections 41-3309 and 41-3310, Idaho Code, all records of the insurer,
45 other documents, and all insurance department files and court records and
46 papers, so far as they pertain to or are a part of the record of the proceed-
47 ings, shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter
48 1, title 74, Idaho Code.

1 SECTION 113. That Section 41-4011, Idaho Code, be, and the same is
2 hereby amended to read as follows:

3 41-4011. RECORDS AND ACCOUNTS -- ANNUAL STATEMENT. (1) The trustee of
4 a self-funded plan shall cause full and accurate records and accounts to be
5 entered and maintained during all times of the existence of the trust cover-
6 ing all financial transactions and affairs of the trust fund, which records
7 and accounts shall be subject to review by the director. Any audit of the
8 plan or trust shall be completed independently of any other entity.

9 (2) Within ninety (90) days after close of a fiscal year of the plan,
10 the trustee shall prepare an annual statement in writing summarizing the fi-
11 nancial transactions of the trust fund for such fiscal year and the finan-
12 cial condition of the trust at the end of such year in accordance with the
13 requirements of this chapter and with generally accepted accounting princi-
14 ples. The statement shall be in a form acceptable to the director and include
15 such information as prescribed by the director. The financial information
16 included therein shall be certified by the accountant who audited such in-
17 formation. The trustee shall promptly deliver a copy of the statement to
18 each employer or postsecondary educational institution participating in the
19 plan and keep a copy thereof on file in the business office from which the
20 plan is operated. Such statement shall be available for review by any bene-
21 ficiary at all reasonable times for a period of not less than three (3) years
22 from the date of the statement. If the plan is managed by a third party admin-
23 istrator, such statement shall be available at the administrative offices of
24 the employer or employers or postsecondary educational institution.

25 (3) The plan's annual statement shall be accompanied by the certified
26 actuarial opinion described in section 41-4010, Idaho Code. Such annual
27 statement shall be prepared in accordance with actuarial standard of prac-
28 tice no. 28. The self-funded plan shall require that the qualified actuary
29 retain the actuarial work papers until the department has filed an examina-
30 tion report of the plan covering the period of the actuarial opinion but no
31 longer than seven (7) years from the date of such opinion.

32 (4) On or before expiration of such ninety (90) day period the trustee
33 shall file an original of the annual statement and certified actuarial opin-
34 ion with the director. The actuarial opinion shall be filed in a form pre-
35 scribed by the director. The trustee shall pay a filing fee as provided for
36 by rule. The director may grant a thirty (30) day extension of the time for
37 filing the annual statement.

38 (5) The trustee shall also file quarterly supplemental unaudited fi-
39 nancial reports and other periodic supplemental unaudited financial reports
40 in a form and at the times prescribed by the director.

41 (6) The director shall transmit and account for all fees received by him
42 hereunder as provided in section 41-406, Idaho Code.

43 (7) The annual and quarterly reports required under this section are
44 public records and are available to the public, notwithstanding the exemp-
45 tions from disclosure provided in ~~chapter 3, title 9~~ chapter 1, title 74,
46 Idaho Code.

47 SECTION 114. That Section 41-4111, Idaho Code, be, and the same is
48 hereby amended to read as follows:

1 41-4111. RECORDS AND ACCOUNTS -- ANNUAL STATEMENT. (1) The board of a
 2 joint public agency self-funded plan shall cause full and accurate records
 3 and accounts to be entered and maintained covering all financial transac-
 4 tions and affairs of the trust fund.

5 (2) Within ninety (90) days after the close of a fiscal year of the plan,
 6 the board shall make an annual statement in writing summarizing the finan-
 7 cial transactions of the trust fund for such fiscal year and its financial
 8 condition at the end of such year in accordance with this chapter and gen-
 9 erally accepted and applicable accounting principles. The statement shall
 10 be in the form as prescribed by the director and the financial information
 11 therein shall be certified by an independent public accountant by whom such
 12 information was prepared. The board shall keep a copy thereof on file in the
 13 business office of the plan where it shall be available at all reasonable
 14 times for a period of not less than three (3) years for review by any bene-
 15 ficiary and shall deliver a copy of a financial summary to each participating
 16 employer.

17 (3) On or before expiration of such ninety (90) day period the board
 18 shall cause an original of the annual statement to be filed with the direc-
 19 tor. The joint public agency self-funded plan shall not be subject to any
 20 filing fees provided for by rule. The director may grant a thirty (30) day
 21 extension of the time for filing the annual statement.

22 (4) The board shall also file quarterly supplemental financial reports
 23 in a form and at the times prescribed by the director.

24 (5) The annual and quarterly reports required under this section are
 25 public records and are available to the public, notwithstanding the exemp-
 26 tions from disclosure provided in ~~chapter 3, title 9~~ chapter 1, title 74,
 27 Idaho Code.

28 SECTION 115. That Section 41-5103, Idaho Code, be, and the same is
 29 hereby amended to read as follows:

30 41-5103. LICENSURE. (1) No person, firm, association or corporation
 31 shall act as a RB in this state if the RB maintains an office either directly
 32 or as a member or employee of a firm or association, or an officer, director
 33 or employee of a corporation:

34 (a) In this state, unless such RB is a licensed producer in this state;
 35 or

36 (b) In another state, unless such RB is a licensed producer in this
 37 state or another state having a law substantially similar to this law or
 38 such RB is licensed in this state as a nonresident reinsurance interme-
 39 diary.

40 (2) No person, firm, association or corporation shall act as a RM:

41 (a) For a reinsurer domiciled in this state, unless such RM is a li-
 42 censed producer in this state;

43 (b) In this state, if the RM maintains an office either directly or as
 44 a member or employee of a firm or association, or an officer, director
 45 or employee of a corporation in this state, unless such RM is a licensed
 46 producer in this state;

47 (c) In another state for a nondomestic insurer, unless such RM is a
 48 licensed producer in this state or another state having a law substan-

1 tially similar to this law or such person is licensed in this state as a
2 nonresident reinsurance intermediary.

3 (3) The director may require a RM subject to subsection (2) of this sec-
4 tion to:

5 (a) File a bond in an amount from an insurer acceptable to the director
6 for the protection of the reinsurer; and

7 (b) Maintain an errors and omissions policy in an amount acceptable to
8 the director.

9 (4) (a) The director may issue a reinsurance intermediary license to
10 any person, firm, association or corporation who has complied with the
11 requirements of this chapter. Any such license issued to a firm or as-
12 sociation will authorize all the members of such firm or association and
13 any designated employees to act as reinsurance intermediaries under the
14 license, and all such persons shall be named in the application and any
15 supplements thereto. Any such license issued to a corporation shall au-
16 thorize all of the officers, and any designated employees and directors
17 thereof to act as reinsurance intermediaries on behalf of such corpora-
18 tion, and all such persons shall be named in the application and any sup-
19 plements thereto.

20 (b) If the applicant for a reinsurance intermediary license is a non-
21 resident, such applicant, as a condition precedent to receiving or
22 holding a license, shall designate the director as agent for service
23 of process in the manner, and with the same legal effect, provided for
24 in this title for designation of service of process upon unauthorized
25 insurers, and shall also furnish the director with the name and address
26 of a resident of this state upon whom notices or orders of the director
27 or process affecting such nonresident reinsurance intermediary may be
28 served. Such licensee shall promptly notify the director in writing of
29 every change in its designated agent for service of process, and such
30 change shall not become effective until acknowledged by the director.

31 (5) The director may refuse to issue a reinsurance intermediary license
32 if, in his judgment, the applicant, anyone named on the application, or any
33 member, principal, officer or director of the applicant, is not trustworthy,
34 or that any controlling person of such applicant is not trustworthy to act as
35 a reinsurance intermediary, or that any of the foregoing has given cause for
36 revocation or suspension of such license, or has failed to comply with any
37 prerequisite for the issuance of such license. Upon written request there-
38 for, the director will furnish a summary of the basis for refusal to issue a
39 license, which document shall be privileged and exempt from disclosure pur-
40 suant to exemptions provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho
41 Code.

42 (6) Licensed attorneys at law of this state when acting in their profes-
43 sional capacity as such shall be exempt from the provisions of this section.

44 SECTION 116. That Section 41-5408, Idaho Code, be, and the same is
45 hereby amended to read as follows:

46 41-5408. CONFIDENTIALITY -- PROHIBITION ON ANNOUNCEMENTS, PROHIBI-
47 TION ON USE IN RATEMAKING. (1) All RBC reports, to the extent the information
48 therein is not required to be set forth in a publicly available annual
49 statement schedule, and RBC plans, including the results or report of any

1 examination or analysis of an insurer performed pursuant hereto and any cor-
2 rective order issued by the director pursuant to examination or analysis,
3 with respect to any domestic insurer or foreign insurer which are filed with
4 the director, constitute information that might be damaging to the insurer
5 if made available to its competitors, and therefore shall be kept confiden-
6 tial by the director and shall be considered privileged. Notwithstanding
7 the provisions of ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, this in-
8 formation shall not be made public or be subject to subpoena and shall not be
9 subject to discovery or admissible in evidence in any private civil action.
10 However, the director is authorized to use the documents, materials or other
11 information in the furtherance of any regulatory or legal action brought as a
12 part of the director's official duties.

13 (2) Neither the director nor any person who received documents, mate-
14 rials or other information while acting under the authority of the direc-
15 tor shall be permitted or required to testify in any private civil action
16 concerning any confidential documents, materials or information obtained or
17 provided pursuant to subsection (1) of this section.

18 (3) In order to assist in the performance of his duties under this chap-
19 ter, the director may:

20 (a) Share documents, materials or other information, including the
21 confidential and privileged documents, materials or information sub-
22 ject to subsection (1) of this section, with other states, federal and
23 international regulatory agencies, with the NAIC and its affiliates and
24 subsidiaries and with state, federal and international law enforcement
25 authorities, provided that the recipient agrees to maintain the con-
26 fidentiality and privileged status of the document, material or other
27 information;

28 (b) Receive documents, materials or information, including otherwise
29 confidential and privileged documents, materials or information, from
30 the NAIC and its affiliates and subsidiaries and from regulatory and law
31 enforcement officials of other foreign or domestic jurisdictions and
32 shall maintain as confidential or privileged any document, material or
33 information received with notice of or the understanding that it is con-
34 fidential or privileged under the laws of the jurisdiction that is the
35 source of the document, material or information; and

36 (c) Enter into agreements governing the sharing and use of information
37 consistent with the provisions of this subsection.

38 (4) No waiver of any applicable privilege or claim of confidentiality
39 in the documents, materials or information referenced in this section shall
40 occur as a result of disclosure to the director under this section or as a re-
41 sult of sharing as authorized in subsection (3) of this section.

42 (5) It is the judgment of the legislature that the comparison of an
43 insurer's total adjusted capital to any of its RBC levels is a regulatory
44 tool which may indicate the need for possible corrective action with respect
45 to the insurer, and is not intended as a means to rank insurers generally.
46 Therefore, except as otherwise required under the provisions of this chap-
47 ter, the making, publishing, disseminating, circulating or placing before
48 the public, or causing, directly or indirectly, to be made, published, dis-
49 seminated, circulated or placed before the public in a newspaper, magazine
50 or other publication, or in the form of a notice, circular, pamphlet, letter

1 or poster, or over any radio or television station, or in any other way, an
 2 advertisement, announcement or statement containing an assertion, repre-
 3 sentation or statement with regard to the RBC levels of any insurer, or of any
 4 component derived in the calculation, by any insurer, agent, broker or other
 5 person engaged in any manner in the insurance business would be mislead-
 6 ing and is therefore prohibited; provided however, that if any materially
 7 false statement with respect to the comparison regarding an insurer's total
 8 adjusted capital to its RBC levels, or any of them, or an inappropriate com-
 9 parison of any other amount to the insurers' RBC levels is published in any
 10 written publication and the insurer is able to demonstrate to the director
 11 with substantial proof the falsity of such statement, or the inappropriateness,
 12 as the case may be, then the insurer may publish an announcement in a
 13 written publication if the sole purpose of the announcement is to rebut the
 14 materially false statement.

15 (6) It is the further judgment of the legislature that the RBC instruc-
 16 tions, RBC reports, adjusted RBC reports, RBC plans and revised RBC plans are
 17 intended solely for use by the director in monitoring the solvency of insur-
 18 ers and the need for possible corrective action with respect to insurers and
 19 shall not be used by the director for ratemaking nor considered or introduced
 20 as evidence in any rate proceeding nor used by the director to calculate or
 21 derive any elements of an appropriate premium level or rate of return for any
 22 line of insurance which an insurer or any affiliate is authorized to write.

23 SECTION 117. That Section 41-5817, Idaho Code, be, and the same is
 24 hereby amended to read as follows:

25 41-5817. RECORD RETENTION. (1) A public adjuster shall maintain a com-
 26 plete record of each transaction as a public adjuster. The records required
 27 by this section shall include the following:

- 28 (a) Name of the insured;
- 29 (b) Date, location and amount of the loss;
- 30 (c) Copy of the contract between the public adjuster and insured;
- 31 (d) Name of the insurer, amount, expiration date and number of each pol-
 32 icy carried with respect to the loss;
- 33 (e) Itemized statement of the insured's recoveries;
- 34 (f) Itemized statement of all compensation received by the public ad-
 35 juster, from any source whatsoever, in connection with the loss;
- 36 (g) A register of all moneys received, deposited, disbursed or with-
 37 drawn in connection with a transaction with an insured, including fees,
 38 transfers and disbursements from a trust account and all transactions
 39 concerning all interest bearing accounts;
- 40 (h) Name of public adjuster who executed the contract;
- 41 (i) Name of the attorney representing the insured, if applicable, and
 42 the name of the claims representatives of the insurance company; and
- 43 (j) Evidence of financial responsibility in a format prescribed by the
 44 department.

45 (2) Records shall be maintained for at least five (5) years after the
 46 termination of the transaction with an insured and shall be open to examina-
 47 tion by the department at all times.

48 (3) Records submitted to the department in accordance with this section
 49 that contain information identified in writing as proprietary by the public

1 adjuster shall be treated as confidential by the department pursuant to sec-
2 tion ~~9-340D~~ 74-107, Idaho Code.

3 SECTION 118. That Section 42-4010, Idaho Code, be, and the same is
4 hereby amended to read as follows:

5 42-4010. POWERS AND DUTIES -- PENALTIES -- ENFORCEMENT PROCEDURE. (a)
6 The water resource board may adopt, amend, or rescind reasonable rules,
7 regulations, and construction standards necessary to the administration of
8 this chapter in accordance with chapter 52, title 67, Idaho Code.

9 (b) The board may require that owners or operators of wells or injection
10 wells keep or cause to be kept well logs, core records, and drilling histo-
11 ries of such wells or injection wells. It may require that copies of such
12 logs, records, and/or histories be filed with the director within a reason-
13 able time after well completion. It may further require such other geologic,
14 geochemical, or engineering plans, reports, or records as necessary for the
15 administration of this chapter. Any reports, logs, records, or histories
16 filed with the director shall be available for public inspection subject to
17 disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code,
18 and shall be kept as confidential by the director for a period of one (1) year
19 from well completion, provided however, that the director may use any such
20 reports, logs, records, or histories in any action in any court to enforce
21 the provisions of this chapter or any order or regulation adopted hereunder.

22 (c) The director may enter onto private land at any time to inspect any
23 well or geothermal resource development project to determine if such well or
24 project is being constructed, operated, or maintained according to any ap-
25 plicable permits or to determine if the construction, operation, or mainte-
26 nance of such well or project may involve a threat to life or property or an
27 unreasonable risk to subsurface, surface, or atmospheric resources.

28 (d) If the director finds that any person is constructing, operating or
29 maintaining any well or injection well not in accordance with any applicable
30 permit or in a fashion so as to involve an unreasonable risk of, or so as to
31 cause, damage to life or property or subsurface, surface, or atmospheric re-
32 sources, the director may issue an order to such person to correct or to stop
33 such practices as are found to be improper and to mitigate any injury of any
34 sort caused by such practices.

35 (e) The director may enforce any provision of this chapter or any order
36 or regulation issued or adopted pursuant hereto by an appropriate action in
37 the district court. The director may bring an action in the district court to
38 have enjoined any threatened noncompliance with any provision of this chap-
39 ter, regulations, or orders of the director, or any threatened harm to life,
40 property, or surface, subsurface, or atmospheric resources which would be
41 caused by such noncompliance. It shall be the duty of the attorney general to
42 institute and prosecute civil enforcement actions or injunctive actions as
43 provided in this chapter, and to prosecute actions or proceedings for the en-
44 forcement of any criminal provisions of this chapter. The attorney general
45 may delegate the authority and duty under this section to prosecute criminal
46 actions to the prosecuting attorney of the county in which such a criminal
47 action may arise.

48 (f) Any willful violation of or failure to comply with any provision
49 of this chapter, or regulation adopted or order issued pursuant to the chap-

1 ter, shall be a misdemeanor punishable by a fine of up to ten thousand dol-
2 lars (\$10,000) for each offense or a sentence of up to six (6) months in a
3 county jail or both; each day of a continuing violation shall be a separate
4 offense under this subdivision. When the director of the department of wa-
5 ter resources determines that any person is in substantial violation of any
6 provision of this chapter or any rule, permit, certificate, condition of ap-
7 proval or order issued or promulgated pursuant to this chapter, the direc-
8 tor may commence an administrative enforcement action by issuing a written
9 notice of violation in accordance with the provisions of section 42-1701B,
10 Idaho Code. A responsible or principal executive officer of any corporate
11 person may be liable under this subdivision if such corporate person is not
12 in compliance with any provision of this chapter or with any valid order or
13 regulation adopted pursuant hereto.

14 (g) The director shall undertake such studies, investigations, or re-
15 search programs as necessary for the proper administration of this chapter
16 and in order to develop experience in and understanding of the entire field
17 of geothermal resource exploration and development in both its technical and
18 regulatory aspects. The director and board shall cooperate with other Idaho
19 state agencies, the state institutions of higher learning, agencies of other
20 states, and agencies of the federal government in the preparation of such
21 investigations, studies, or research projects. The director and board may
22 cooperate with the scientists at the Idaho national engineering laboratory
23 in their research, development, engineering and demonstration of geothermal
24 projects.

25 (h) The director may enter into cooperative agreements and memoranda of
26 understanding with agencies of other states for the purpose of the adminis-
27 tration of geothermal areas which are partially in Idaho and partially in one
28 (1) or more other states.

29 SECTION 119. That Section 44-1606, Idaho Code, be, and the same is
30 hereby amended to read as follows:

31 44-1606. DEPARTMENT -- LICENSING DUTIES -- LICENSE -- TERM -- RENEWAL
32 FEE. (1) The department shall issue licenses to persons who are at least
33 eighteen (18) years of age and who have shown themselves to be fit, competent
34 and qualified to engage in the business of farm labor contracting. Factors
35 to be considered by the department in making this determination shall in-
36 clude, but not be limited to, the following:

37 (a) Whether an applicant has unsatisfied judgments or administrative
38 decisions requiring the payment of unpaid wages;

39 (b) Whether an applicant has worker's compensation coverage for each
40 employee;

41 (c) Whether an applicant has paid unemployment insurance contributions
42 when due;

43 (d) Whether an applicant has violated any provision of this chapter or
44 the rules adopted hereunder;

45 (e) Whether an applicant was ever denied a license or had a license re-
46 voked, suspended or not renewed under the farm labor contractor laws of
47 any jurisdiction;

48 (f) Whether an applicant has employed an agent who has had a farm labor
49 contractor license denied, suspended, revoked or not renewed or who has

1 otherwise violated any provisions of this chapter or the rules adopted
2 hereunder; and

3 (g) Whether an applicant, when required by law, has failed or refused to
4 seek food, water, shelter or medical attention, or to provide any other
5 goods or services required for the safety and health of the applicant's
6 employees.

7 (2) The industrial commission shall make records available to the de-
8 partment, including records that are otherwise exempt from disclosure under
9 section ~~9-340B~~ 74-105, Idaho Code, for the purpose of determining an appli-
10 cant's qualifications under subsection (1) (b) of this section. Records dis-
11 closed under this subsection shall not be further disclosed by the depart-
12 ment.

13 (3) The department shall issue a license within fifteen (15) business
14 days of receipt of a completed application if the department determines the
15 applicant to be fit, competent and qualified to engage in the business of
16 farm labor contracting. An application shall be deemed completed when all
17 required information and documentation has been submitted to the depart-
18 ment.

19 (4) The license shall not be transferable or assignable.

20 (5) The first year of licensing shall run from April 1st to the follow-
21 ing March 31st and each license shall expire on March 31st following the date
22 of its issuance unless sooner revoked or otherwise terminated by the depart-
23 ment. Beginning January 1, 2004, the licensing year shall run from January
24 1st to the following December 31st and each license shall expire on December
25 31st following the date of its issuance unless sooner revoked or otherwise
26 terminated by the department.

27 (6) A license may be renewed annually upon payment of a nonrefundable
28 fee of two hundred fifty dollars (\$250) and by providing the following:

29 (a) Proof of financial responsibility as required by section 44-1604,
30 Idaho Code;

31 (b) A certificate of insurance as required by section 44-1603(2) (e),
32 Idaho Code; and

33 (c) A certificate of insurance as required by section 44-1603(2) (f),
34 Idaho Code.

35 The department may require any person seeking renewal to file a new applica-
36 tion showing the person to be fit, competent and qualified to continue to en-
37 gage in the business of farm labor contracting.

38 (7) The department shall maintain a central public registry of all per-
39 sons issued a farm labor contractor's license.

40 SECTION 120. That Section 47-319, Idaho Code, be, and the same is hereby
41 amended to read as follows:

42 47-319. LAND SUBJECT TO ACT -- AUTHORITY OF COMMISSION. (1) This act
43 shall apply to all lands located in the state, however owned, including any
44 lands owned or administered by any government or any agency or political sub-
45 division thereof, over which the state under its police power, has jurisdic-
46 tion.

47 (2) The commission is authorized and it is its duty to regulate the ex-
48 ploration for and production of oil and gas, prevent waste of oil and gas and
49 to protect correlative rights, and otherwise to administer and enforce this

1 act. It has jurisdiction over all persons and property necessary for such
2 purposes. In the event of a conflict, the duty to prevent waste is paramount.

3 (3) The commission is authorized to make such investigations as it
4 deems proper to determine whether action by the commission in discharging
5 its duties is necessary.

6 (4) The commission is authorized to appoint, as necessary, committees
7 for the purpose of advising the commission on matters relating to oil and
8 gas.

9 (5) Without limiting its general authority, the commission shall have
10 the specific authority to require:

11 (a) Identification of ownership of oil or gas wells, producing leases,
12 tanks, plants, structures, and facilities for the transportation or re-
13 fining of oil and gas;

14 (b) The taking and preservation of samples and the making and filing
15 with the commission of true and correct copies of well logs and direc-
16 tional surveys both in form and content as prescribed by the commission;
17 provided however, that logs of exploratory or wildcat wells marked con-
18 fidential shall be subject to disclosure according to ~~chapter 3, title~~
19 9 chapter 1, title 74, Idaho Code, and shall be kept confidential by the
20 commission for a period of one (1) year from the date of filing the log
21 with the commission. And provided that the commission may use any well
22 logs and directional surveys in any action to enforce the provisions of
23 this chapter or any order or rule adopted hereunder. And provided fur-
24 ther, that after four (4) months from the effective date of this act, the
25 commission may require the owner of a well theretofore drilled for oil
26 or gas to file within four (4) months of such order a true and correct
27 copy of the log or logs of such well;

28 (c) The drilling, casing, operation and plugging of wells in such man-
29 ner as to prevent: (i) the escape of oil or gas out of one (1) pool into
30 another; (ii) the detrimental intrusion of water into an oil or gas pool
31 that is avoidable by efficient operations; (iii) the pollution of fresh
32 water supplies by oil, gas, or salt water; (iv) blow-outs, cavings,
33 seepages, and fires; and (v) waste as hereinabove defined;

34 (d) The taking of tests of oil or gas wells;

35 (e) The furnishing of a reasonable performance bond with good and suf-
36 ficient surety, conditioned upon the performance of the duty to comply
37 with the requirements of this law and the regulations of the commission
38 with respect to the drilling, maintaining, operating and plugging of
39 each well drilled for oil or gas;

40 (f) That the production from wells be separated into gaseous and liquid
41 hydrocarbons, and that each be measured by means and upon standards that
42 may be prescribed by the commission;

43 (g) That wells not be operated with inefficient gas-oil or water-oil
44 ratios, and to fix these ratios, and to limit production from wells with
45 inefficient gas-oil or water-oil ratios;

46 (h) Metering or other measuring of oil, gas, or product;

47 (i) That every person who produces oil and gas in the state keep and
48 maintain for a period of five (5) years complete and accurate records
49 of the quantities thereof, which records, or certified copies thereof,
50 shall be available for examination by the commission or its agents at

1 all reasonable times within said period, and that every such person file
 2 with the commission such reasonable reports as it may prescribe with re-
 3 spect to such oil or gas production; and

4 (j) The filing of reports of plats with the commission that it may pre-
 5 scribe.

6 (6) Without limiting its general authority, and without limiting the
 7 authority of other state agencies or local government as provided by law, the
 8 commission shall have the specific authority to regulate:

9 (a) The drilling and plugging of wells and the compression or dehydra-
 10 tion of produced oil and gas, and all other operations for the produc-
 11 tion of oil and gas;

12 (b) The shooting and treatment of wells;

13 (c) The spacing or locating of wells;

14 (d) Operations to increase ultimate recovery, such as cycling of gas,
 15 the maintenance of pressure, and the introduction of gas, water, or
 16 other substances into a producing formation; and

17 (e) The disposal of salt water and oil-field wastes.

18 (7) The commission is authorized to classify and reclassify pools as
 19 oil, gas, or condensate pools, or wells as oil, gas, or condensate wells.

20 (8) The commission is authorized to make and enforce rules, regula-
 21 tions, and orders reasonably necessary to prevent waste, protect correla-
 22 tive rights, to govern the practice and procedure before the commission, and
 23 otherwise to administer this act.

24 SECTION 121. That Section 47-1314, Idaho Code, be, and the same is
 25 hereby amended to read as follows:

26 47-1314. DISTURBED LANDS TO BE RESTORED -- NOTICE AND RESTORATION OF
 27 PLACER OR DREDGE EXPLORATION OPERATIONS. (a) Any person conducting a placer
 28 or dredge mining operation shall, within one (1) year of permanent cessa-
 29 tion of operations as to the whole or any part of the permit area, commence
 30 restoration of disturbed lands in the permit area or in any portion thereof
 31 as to which operations are permanently ceased. In accordance with a per-
 32 mit approved for the operation under section 47-1317, Idaho Code, surfaces
 33 shall be returned to a contour reasonably comparable to that contour exist-
 34 ing prior to disturbance, topsoil shall be replaced where deemed appropri-
 35 ate by the board, and vegetation shall be planted reasonably comparable to
 36 that vegetation existing prior to disturbance. Any disturbed natural water-
 37 course shall be restored to a configuration and pool structure conducive to
 38 good fish and wildlife habitat and recreational use.

39 (b) Any person desiring to conduct placer or dredge exploration oper-
 40 ations using motorized earth-moving equipment shall, within seven (7) days
 41 of commencing exploration, notify the director by certified mail of the name
 42 and address of the person, and the location, anticipated size, and method
 43 of exploration. Such notice shall be subject to disclosure according to
 44 ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. Any placer or dredge
 45 exploration operation which causes a cumulative surface disturbance in ex-
 46 cess of one-half (1/2) acre of land, including roads, shall be considered a
 47 placer or dredge mining operation. Lands disturbed by any placer or dredge
 48 exploration operation which causes a cumulative surface disturbance of less
 49 than one-half (1/2) acre of land, including roads, shall be restored to con-

1 ditions reasonably comparable to conditions existing prior to the placer or
2 dredge exploration operation.

3 SECTION 122. That Section 47-1506, Idaho Code, be, and the same is
4 hereby amended to read as follows:

5 47-1506. OPERATOR -- DUTIES PRIOR TO OPERATION -- SUBMISSION OF MAPS
6 AND PLANS. (a) Any operator desiring to conduct surface mining operations
7 within the state of Idaho for the purpose of immediate or ultimate sale of the
8 minerals in either the natural or processed state, shall submit to the board
9 prior to commencing such surface mining operations a reclamation plan that
10 contains the following:

11 (1) A map of the mine panel on which said operator desires to conduct
12 surface mining operations, which sets forth with respect to said panel
13 the following:

14 (i) The location of existing roads and anticipated access and
15 main haulage roads planned to be constructed in conducting the
16 surface mining operations.

17 (ii) The approximate boundaries of the lands to be utilized in the
18 process of surface mining operations.

19 (iii) The approximate location and, if known, the names of all
20 streams, creeks, or bodies of water within the area where surface
21 mining operations shall take place.

22 (iv) The name and address of the person to whom notices, orders,
23 and other information required to be given to the operator pur-
24 suant to this chapter may be sent.

25 (v) The drainage adjacent to the area where the surface is being
26 utilized by surface mining operations.

27 (vi) The approximate boundaries of the lands that will become af-
28 fected lands as a result of surface mining operations during the
29 year immediately following the date that a reclamation plan is ap-
30 proved as to said panel, together with the number of acres included
31 within said boundaries.

32 (vii) A description of foreseeable, site-specific nonpoint
33 sources of water quality impacts upon adjacent surface waters, and
34 the best management practices that will be used to control such
35 nonpoint source impacts.

36 (viii) A description of foreseeable, site-specific impacts from
37 acid rock drainage and the best management practices that will be
38 used to mitigate the impacts, if any, from such acid rock drainage.

39 (2) Diagrams showing the planned location of pits, mineral stockpiles,
40 overburden piles and tailings ponds on said panel.

41 (3) A description of the action which said operator intends to take to
42 comply with the provisions of this chapter as to the surface mining op-
43 erations conducted on such mine panel.

44 (b) Any operator who is not required to submit an operating plan for a
45 surface mining operation to an entity of the federal government shall submit
46 to the board, as part of the reclamation plan, an operating plan with regards
47 to that surface mining operation. The operating plan shall include:

1 (1) Maps showing the location of existing roads and anticipated access
2 and main haulage roads planned to be constructed for surface mining op-
3 erations.

4 (2) The boundaries and acreage of the lands to be utilized in the
5 process of surface mining operations.

6 (3) Maps showing the planned location of pits, mineral stockpiles,
7 overburden piles and tailings ponds for the surface mining operations.

8 (4) The location and, if known, the names of all streams, creeks, or
9 bodies of water within the area where surface mining operations shall
10 take place.

11 (5) The drainage adjacent to the area where the surface is being uti-
12 lized by surface mining operations.

13 (6) The approximate boundaries and acreage of the lands that will be-
14 come affected during the first year of construction of surface mining
15 operations.

16 (7) The board shall promulgate rules or guidelines to allow the content
17 of a nonfederal operating plan to be determined based upon the type and
18 size of the surface mining operation.

19 (c) No operator who is required to submit an operating plan for a sur-
20 face mining operation to an entity of the federal government shall be re-
21 quired to submit an operating plan to the board. This provision shall apply
22 to all lands, regardless of surface or mineral ownership, covered by the op-
23 erating plan submitted to the entity of the federal government.

24 (d) No operator shall commence surface mining operations on any mine
25 panel without first having a reclamation plan approved by the state board of
26 land commissioners.

27 (e) Any operator desiring to conduct exploration operations within the
28 state of Idaho using motorized earth-moving equipment in order to locate
29 minerals for immediate or ultimate sale in either the natural or the pro-
30 cessed state shall notify the board by certified mail as soon after beginning
31 exploration operations as possible and in any event within seven (7) days
32 after beginning exploration operations. The letter shall include the fol-
33 lowing:

34 (1) The name and address of the operator;

35 (2) The location of the operation and the starting date and estimated
36 completion date;

37 (3) The anticipated size of the operation, and the general method of op-
38 eration.

39 The letter shall be subject to disclosure according to ~~chapter 3, title 9~~
40 chapter 1, title 74, Idaho Code.

41 (f) Any operator desiring to operate a cyanidation facility within the
42 state of Idaho shall submit to the board prior to the operation of such a fa-
43 cility a permanent closure plan that contains the following:

44 (1) The name and address of the operator;

45 (2) The location of the operation;

46 (3) The objectives, methods and procedures the operator will use to at-
47 tain permanent closure;

48 (4) An estimate of the cost of attaining permanent closure as well as an
49 estimate of the costs to achieve critical phases of the closure plan;

1 (5) Any other information specified in the rules adopted to carry out
2 the intent and purposes of this chapter.

3 (g) The board may require a reasonable fee for reviewing and approving
4 a permanent closure plan. The fee may include the reasonable cost to employ
5 a qualified independent party, acceptable to the operator and the board, to
6 verify the accuracy of the cost estimate required in subsection (f) (4) of
7 this section.

8 (h) The board shall coordinate its review of activities in the perma-
9 nent closure plan under the statutory responsibility of the department of
10 environmental quality with that department, but that coordination shall not
11 extend the time limit in which the board must act on a plan submitted.

12 (i) No operator shall commence operation of a cyanidation facility
13 without first having a permanent closure plan approved by the board.

14 SECTION 123. That Section 47-1515, Idaho Code, be, and the same is
15 hereby amended to read as follows:

16 47-1515. INFORMATION. Any information supplied by an operator to the
17 board, the director, or the department of lands, and designated by such oper-
18 ator as confidential, shall be subject to disclosure according to ~~chapter 3,~~
19 title 9 chapter 1, title 74, Idaho Code.

20 SECTION 124. That Section 48-612, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 48-612. ADDITIONAL POWERS OF ATTORNEY GENERAL. To accomplish the ob-
23 jectives and to carry out the duties prescribed by this chapter, the attor-
24 ney general, in addition to other powers conferred upon him by this chapter,
25 may issue subpoenas to any person and conduct hearings in aid of any investi-
26 gation or inquiry; provided that information obtained pursuant to the pow-
27 ers conferred in this chapter shall be subject to disclosure according to
28 ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

29 SECTION 125. That Section 48-801, Idaho Code, be, and the same is hereby
30 amended to read as follows:

31 48-801. DEFINITIONS. As used in this chapter unless the context re-
32 quires otherwise:

33 (1) "Improper means" include theft, bribery, misrepresentation,
34 breach or inducement of a breach of a duty to maintain secrecy, or espionage
35 through electronic or other means.

36 (2) "Misappropriation" means:

37 (a) Acquisition of a trade secret of another by a person who knows or has
38 reason to know that the trade secret was acquired by improper means; or

39 (b) Disclosure or use of a trade secret of another without express or
40 implied consent by a person who:

41 (A) Used improper means to acquire knowledge of the trade secret;
42 or

43 (B) At the time of disclosure or use, knew or had reason to know
44 that his knowledge of the trade secret was:

- 1 (i) Derived from or through a person who had utilized im-
 2 proper means to acquire it;
 3 (ii) Acquired under circumstances giving rise to a duty to
 4 maintain its secrecy or limit its use; or
 5 (iii) Derived from or through a person who owed a duty to the
 6 person seeking relief to maintain its secrecy or limit its
 7 use; or
 8 (C) Before a material change of his position, knew or had reason
 9 to know that it was a trade secret and that knowledge of it had been
 10 acquired by accident or mistake.
 11 (3) "Person" means a natural person, corporation, business trust, es-
 12 tate, trust, partnership, association, joint venture, government, govern-
 13 mental subdivision or agency, or any other legal or commercial entity.
 14 (4) "Computer program" means information which is capable of causing a
 15 computer to perform logical operation(s) and:
 16 (a) Is contained on any media or in any format;
 17 (b) Is capable of being input, directly or indirectly, into a computer;
 18 and
 19 (c) Has prominently displayed a notice of copyright, or other propri-
 20 etary or confidential marking, either within or on the media containing
 21 the information.
 22 (5) "Trade secret" means information, including a formula, pattern,
 23 compilation, program, computer program, device, method, technique, or
 24 process, that:
 25 (a) Derives independent economic value, actual or potential, from not
 26 being generally known to, and not being readily ascertainable by proper
 27 means by, other persons who can obtain economic value from its disclo-
 28 sure or use; and
 29 (b) Is the subject of efforts that are reasonable under the circum-
 30 stances to maintain its secrecy. Trade secrets as defined in this
 31 subsection are subject to disclosure by a public agency according to
 32 ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

33 SECTION 126. That Section 48-1509, Idaho Code, be, and the same is
 34 hereby amended to read as follows:

35 48-1509. PUBLIC RECORDS. All documents submitted to the attorney gen-
 36 eral by any person, including nonprofit hospital entities giving notice un-
 37 der section 48-1503, Idaho Code, in connection with the attorney general's
 38 review of the proposed nonprofit hospital conversion transaction pursuant
 39 to this chapter shall be deemed records contained in court files of judicial
 40 proceedings, as provided for in section ~~9-340A~~ 74-104(2), Idaho Code, and
 41 shall only be subject to public disclosure, pursuant to a public document re-
 42 quest, in the same manner as set forth in that section.

43 SECTION 127. That Section 49-321, Idaho Code, be, and the same is hereby
 44 amended to read as follows:

45 49-321. RECORDS TO BE KEPT BY THE DEPARTMENT. (1) The department shall
 46 file every application for a driver's license received by it and shall main-
 47 tain suitable indices containing:

- 1 (a) All applications denied and on each note the reason for denial;
 2 (b) All applications granted;
 3 (c) The name of every licensee whose driver's license has been sus-
 4 pended, revoked, canceled, denied or disqualified by the department and
 5 after each name note the reasons for the action;
 6 (d) The driver's license number for the applicant; and
 7 (e) The social security number of the applicant.
 8 (2) The department shall file the original or copy of the medical exam-
 9 iner's certificates, medical exemption letters and skill performance evalu-
 10 ation certificates of all commercial driver's license or instruction permit
 11 holders required to provide documentation of their physical qualification.
 12 The department shall maintain the document (s) for a period of three (3) years
 13 beyond the date the certificate or document was issued.
 14 (3) The department shall also file all accident reports and abstracts
 15 of court records of convictions received by it under the law from any juris-
 16 diction and is authorized to forward records of convictions, suspensions or
 17 disqualifications to any jurisdiction. Records may be in either paper or
 18 electronic form. The department shall maintain convenient records or make
 19 suitable notations in order that an individual record of each licensee show-
 20 ing the convictions and the traffic accidents in which the licensee has been
 21 involved shall be readily ascertainable and available for consideration of
 22 the department upon any application for renewal of a driver's license and at
 23 other suitable times.
 24 (4) The department of health and welfare, on or about the 25th day of
 25 each month shall, upon the request of the department, furnish the department
 26 a listing showing the name, age, county of residence, and residence address
 27 of each Idaho resident who has died during the preceding month. The listing
 28 shall be used only for purposes of updating the driver's license files of the
 29 department and shall be subject to disclosure according to ~~chapter 3, title 9~~
 30 chapter 1, title 74, Idaho Code.

31 SECTION 128. That Section 49-1234, Idaho Code, be, and the same is
 32 hereby amended to read as follows:

- 33 49-1234. ONLINE INSURANCE VERIFICATION SYSTEM -- PEACE OFFICER DUTIES
 34 -- RULEMAKING. (1) The department shall establish and maintain an online in-
 35 surance verification system for motor vehicle insurance coverage required
 36 by the provisions of this chapter, subject to the following:
 37 (a) The department shall consult with representatives of the insurance
 38 industry to determine the objectives, details and deadlines relating to
 39 the verification system;
 40 (b) The verification system shall be accessible through the internet,
 41 world wide web or a similar proprietary or common carrier electronic
 42 system by authorized personnel of the department, department of in-
 43 surance, courts, law enforcement entities and of any other entity
 44 authorized by the department;
 45 (c) The verification system shall provide for direct inquiry and re-
 46 sponse between the department and insurance carriers, or such other
 47 method of inquiry and response as agreed to by the department and indi-
 48 vidual insurance carriers, and direct access to insurers' records by
 49 personnel authorized by the department;

1 (d) The verification system shall be capable of sending inquiries to
2 and receiving responses from insurers for the purpose of verifying cur-
3 rent motor vehicle insurance coverage via web services established by
4 insurers through the internet, world wide web or a similar proprietary
5 or common carrier electronic system, in compliance with the specifica-
6 tions and standards of the insurance industry committee on motor vehi-
7 cle administration (IICMVA), provided that the department shall pro-
8 mulgate rules to provide insurers an alternative method for reporting
9 motor vehicle insurance policy data rather than establishing web ser-
10 vices or utilizing IICMVA's insurance data transfer guide;

11 (e) With the exception of unplanned system outages, the verification
12 system shall be available twenty-four (24) hours a day to verify the
13 insurance status of any motor vehicle registered in this state through
14 the vehicle's identification number, policy number, registered owner's
15 name or other identifying characteristic or marker; provided that a
16 reasonable amount of downtime may be allotted for planned system out-
17 ages;

18 (f) The verification system shall include appropriate provisions, con-
19 sistent with IICMVA standards, to secure its data against unauthorized
20 access and to maintain a record of all information requests; and

21 (g) All information exchanged between the department and insurance
22 companies, any database created, all information contained in the
23 verification system and all reports, responses or other information
24 generated for the purposes of the verification system shall be exempt
25 from disclosure as provided in section ~~9-340C~~ 74-106, Idaho Code.

26 (2) As a condition for writing motor vehicle liability insurance poli-
27 cies in this state, insurance carriers shall cooperate with the department
28 in establishing and maintaining the insurance verification system and shall
29 provide access to motor vehicle insurance policy status information as may
30 be provided in rules promulgated by the department.

31 (3) Insurers that make good faith efforts to comply with the provisions
32 of this section shall be immune from civil or administrative liability re-
33 lated to this section.

34 (4) Peace officers shall access information from the online insurance
35 verification system to verify the current validity of motor vehicle liabil-
36 ity insurance. If insurance is verified, then the peace officer shall not
37 issue a citation for an infraction violation of the provisions of section
38 49-1232, Idaho Code.

39 (5) If an Idaho uniform citation is issued to a person for an infraction
40 violation of the provisions of section 49-1232, Idaho Code, and it is sub-
41 sequently found that the legally required motor vehicle insurance coverage
42 was in force at the time of the issuance of the citation, then the court shall
43 dismiss the citation without penalty and such citation shall not appear on
44 the person's record.

45 (6) This section shall not apply to any vehicle insured under commer-
46 cial motor vehicle coverage and shall not apply to implements of husbandry
47 and golf carts. As used in this section, "commercial motor vehicle coverage"
48 means an insurance policy that covers a business's vehicles and employees.

1 (7) The department may promulgate rules in accordance with the provi-
2 sions of chapter 52, title 67, Idaho Code, to carry out the provisions of this
3 section.

4 SECTION 129. That Section 49-1311, Idaho Code, be, and the same is
5 hereby amended to read as follows:

6 49-1311. ACCIDENT REPORTS. All accident reports made by garages shall
7 be without prejudice to the individual reporting and shall be subject to dis-
8 closure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, and
9 shall be used for accident prevention purposes.

10 SECTION 130. That Section 49-1313, Idaho Code, be, and the same is
11 hereby amended to read as follows:

12 49-1313. ANY INCORPORATED CITY MAY REQUIRE ACCIDENT REPORTS. Any in-
13 corporated city may by ordinance require that the driver of a vehicle in-
14 volved in an accident also file with a designated city department a report of
15 an accident or a copy of any report required to be filed with the department.
16 All such reports shall be subject to disclosure according to ~~chapter 3, title~~
17 9 chapter 1, title 74, Idaho Code.

18 SECTION 131. That Section 49-1314, Idaho Code, be, and the same is
19 hereby amended to read as follows:

20 49-1314. TESTING BLOOD OF PERSONS KILLED IN ACCIDENTS. (1) The direc-
21 tor of the Idaho state police, jointly with the various county coroners,
22 shall provide a system and procedure whereby all coroners in Idaho shall ob-
23 tain blood samples from all pedestrians and motor vehicle operators who have
24 died as a result of and contemporaneously with an accident involving a motor
25 vehicle.

26 (2) All investigating peace officers shall report traffic fatalities
27 to the county coroner or follow the procedure established by the joint action
28 of the director of the Idaho state police and the various coroners.

29 (3) The blood sample, or result of blood testing, with any information
30 as may be required, shall be delivered to the director of the Idaho state po-
31 lice or his designee. Upon receipt of the sample the director will cause all
32 tests as may be required to determine the amount of alcohol, narcotics and
33 dangerous drugs that may be contained in the sample.

34 (4) The results of such tests shall be used for statistical purposes and
35 shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, ti-
36 tle 74, Idaho Code.

37 SECTION 132. That Section 50-2006, Idaho Code, be, and the same is
38 hereby amended to read as follows:

39 50-2006. URBAN RENEWAL AGENCY. (a) There is hereby created in each mu-
40 nicipality an independent public body corporate and politic to be known as
41 the "urban renewal agency" that was created by resolution as provided in sec-
42 tion 50-2005, Idaho Code, before July 1, 2011, for the municipality; pro-
43 vided, that such agency shall not transact any business or exercise its pow-

1 ers hereunder until or unless: (1) the local governing body has made the
2 findings prescribed in section 50-2005, Idaho Code; and provided further,
3 that such agency created after July 1, 2011, shall not transact any busi-
4 ness or exercise its powers provided for in this chapter until (2) a major-
5 ity of qualified electors, voting in a citywide or countywide election de-
6 pending on the municipality in which such agency is created, vote to autho-
7 rize such agency to transact business and exercise its powers provided for in
8 this chapter. If prior to July 1, 2011, the local governing body has made the
9 findings prescribed in subsection (a) (1) of this section then such agency
10 shall transact business and shall exercise its powers hereunder and is not
11 subject to the requirements of subsection (a) (2) of this section.

12 (b) Upon satisfaction of the requirements under subsection (a) of this
13 section, the urban renewal agency is authorized to transact the business and
14 exercise the powers hereunder by a board of commissioners to be established
15 as follows:

16 (1) The mayor, by and with the advice and consent of the local governing
17 body, shall appoint a board of commissioners of the urban renewal agency
18 which shall consist of not less than three (3) commissioners nor more
19 than nine (9) commissioners. In the order of appointment, the mayor
20 shall designate the number of commissioners to be appointed, and the
21 term of each, provided that the original term of office of no more than
22 two (2) commissioners shall expire in the same year. The commissioners
23 shall serve for terms not to exceed five (5) years, from the date of ap-
24 pointment, except that all vacancies shall be filled for the unexpired
25 term.

26 (2) For inefficiency or neglect of duty or misconduct in office, a com-
27 missioner may be removed by a majority vote of the board or by the local
28 governing body only after a hearing and after he shall have been given a
29 copy of the charges at least ten (10) days prior to such hearing and have
30 had an opportunity to be heard in person or by counsel. Any commission
31 position which becomes vacant at a time other than the expiration of a
32 term shall be filled by a majority vote of the board. The board may elect
33 any person to fill such vacant position where such person meets the re-
34 quirements of a commissioner provided for in this chapter.

35 (3) By enactment of an ordinance, the local governing body may appoint
36 and designate itself to be the board of commissioners of the urban re-
37 newal agency, in which case all the rights, powers, duties, privileges
38 and immunities vested by the urban renewal law of 1965, and as amended,
39 in an appointed board of commissioners, shall be vested in the local
40 governing body, who shall, in all respects when acting as an urban re-
41 newal agency, be acting as an arm of state government, entirely separate
42 and distinct from the municipality, to achieve, perform and accomplish
43 the public purposes prescribed and provided by said urban renewal law of
44 1965, and as amended.

45 (4) By enactment of an ordinance, the local governing body may termi-
46 nate the appointed board of commissioners and thereby appoint and des-
47 ignate itself as the board of commissioners of the urban renewal agency.

48 (c) A commissioner shall receive no compensation for his services but
49 shall be entitled to the necessary expenses, including traveling expenses,
50 incurred in the discharge of his duties. Each commissioner shall hold office

1 until his successor has been appointed and has qualified. A certificate of
 2 the appointment or reappointment of any commissioner shall be filed with the
 3 clerk of the municipality and such certificate shall be conclusive evidence
 4 of the due and proper appointment of such commissioner.

5 The powers of an urban renewal agency shall be exercised by the commis-
 6 sioners thereof. A majority of the commissioners shall constitute a quo-
 7 rum for the purpose of conducting business and exercising the powers of the
 8 agency and for all other purposes. Action may be taken by the agency upon a
 9 vote of a majority of the commissioners present, unless in any case the by-
 10 laws shall require a larger number.

11 The commissioners shall elect the chairman, cochairman or vice chair-
 12 man for a term of one (1) year from among their members. An agency may employ
 13 an executive director, technical experts and such other agents and employ-
 14 ees, permanent and temporary, as it may require, and determine their qual-
 15 ifications, duties and compensation. For such legal service as it may re-
 16 quire, an agency may employ or retain its own counsel and legal staff. An
 17 agency authorized to transact business and exercise powers under this chap-
 18 ter shall file, with the local governing body, on or before March 31 of each
 19 year a report of its activities for the preceding calendar year, which report
 20 shall include a complete financial statement setting forth its assets, lia-
 21 bilities, income and operating expense as of the end of such calendar year.
 22 The agency shall be required to hold a public meeting to report these find-
 23 ings and take comments from the public. At the time of filing the report, the
 24 agency shall publish in a newspaper of general circulation in the community
 25 a notice to the effect that such report has been filed with the municipality
 26 and that the report is available for inspection during business hours in the
 27 office of the city clerk or county recorder and in the office of the agency.

28 (d) An urban renewal agency shall have the same fiscal year as a munici-
 29 pality and shall be subject to the same audit requirements as a municipality.
 30 An urban renewal agency shall be required to prepare and file with its lo-
 31 cal governing body an annual financial report and shall prepare, approve and
 32 adopt an annual budget for filing with the local governing body, for informa-
 33 tional purposes. A budget means an annual estimate of revenues and expenses
 34 for the following fiscal year of the agency.

35 (e) An urban renewal agency shall comply with the public records law
 36 pursuant to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, open meet-
 37 ings law pursuant to ~~chapter 23, title 67~~ chapter 2, title 74, Idaho Code, the
 38 ethics in government law pursuant to ~~chapter 7, title 59~~ chapter 4, title 74,
 39 Idaho Code, and the competitive bidding provisions of chapter 28, title 67,
 40 Idaho Code.

41 SECTION 133. That Section 54-204, Idaho Code, be, and the same is hereby
 42 amended to read as follows:

43 54-204. POWERS AND DUTIES. The Idaho state board of accountancy, in
 44 addition to the other powers and duties set forth in this chapter, shall have
 45 the following powers and duties:

46 (1) To adopt and amend rules in accordance with the provisions of the
 47 administrative procedure act, chapter 52, title 67, Idaho Code, governing
 48 its administration and the enforcement of this chapter and the conduct of li-
 49 censees including, but not limited to:

1 (a) Rules governing the board's meetings and the conduct of its busi-
2 ness;

3 (b) Rules of procedure governing the conduct of investigations and
4 hearings by the board;

5 (c) Rules specifying the education, examination and experience quali-
6 fications required for the issuance of certificates, and the continuing
7 professional education required for renewal of licenses;

8 (d) Rules of professional conduct directed to controlling the quality
9 and probity of professional services by licensees, and dealing among
10 other things with independence, integrity and objectivity; competence
11 and technical standards; responsibilities to the public; and responsi-
12 bilities to clients;

13 (e) Rules governing the professional standards applicable to li-
14 censees;

15 (f) Rules governing the manner and circumstances of use of the titles
16 "certified public accountant" and "licensed public accountant";

17 (g) Rules regarding peer reviews that may be required to be performed
18 under the provisions of this chapter;

19 (h) Rules on substantial equivalency to implement section 54-227,
20 Idaho Code;

21 (i) Rules adopting statements on standards as specified in section
22 54-206, Idaho Code, which, if the board may deem appropriate, shall
23 be those standards developed for general application by recognized
24 accountancy organizations such as the AICPA, as such statements are
25 established from time to time; and

26 (j) Such other rules as the board may deem necessary or appropriate to
27 implement or administer the provisions and purposes of this chapter.

28 (2) To issue original certificates of qualification and licenses to
29 practice as certified public accountants to such applicants as may be quali-
30 fied by reciprocity, transfer of examination grades or by examination.

31 (3) To charge and collect from all applicants, certificate holders, and
32 licensees such fees as are provided by this chapter and prescribed by rules
33 of the board.

34 (4) To initiate or receive complaints, cause the same to be investi-
35 gated, initiate proceedings, and conduct hearings or proceedings pursuant
36 to chapter 2, title 54, Idaho Code. The board may designate a member, or any
37 other person of appropriate competence, to serve as investigating officer to
38 conduct an investigation. Upon completion of an investigation, the investi-
39 gating officer shall file a report with the board. Unless dismissed by the
40 board as unfounded or trivial, the board may proceed with disciplinary pro-
41 ceedings or may return the report to the investigating officer for further
42 investigation.

43 (a) In order to protect the interests of a complainant, witness, third
44 party or defendant, the board may upon application and for good cause
45 shown, issue a protective order, consistent with ~~chapter 3, title 9~~
46 chapter 1, title 74, Idaho Code, prohibiting the disclosure of specific
47 information otherwise not privileged and confidential and direct that
48 the proceedings be conducted so as to implement the order.

49 (b) In carrying into effect the provisions of this chapter, the board
50 may subpoena witnesses and compel their attendance, and also may re-

1 quire the submission of books, papers, documents or other pertinent
 2 data; may administer oaths; may take testimony; may cooperate with the
 3 appropriate authorities in other states in investigation and enforce-
 4 ment concerning violations of this chapter and comparable acts of other
 5 states; and may receive evidence in any disciplinary matters or in any
 6 case wherever a violation of the provisions of this chapter is alleged.
 7 Upon failure or refusal to comply with any such order of the board, or
 8 upon failure to honor its subpoena, the board may apply to the court in
 9 the district where the witness resides to enforce compliance.

10 (5) To authorize by written agreement the bureau of occupational li-
 11 censes as agent to act in its interest.

12 (6) Any action, claim or demand to recover money damages from the board
 13 or its employees which any person is legally entitled to recover as compensa-
 14 tion for the negligent or otherwise wrongful act or omission of the board or
 15 its employees, when acting within the course and scope of their employment,
 16 shall be governed by the Idaho tort claims act, chapter 9, title 6, Idaho
 17 Code. For purposes of this subsection, the term "employees" shall include
 18 special assignment members of the board and other independent contractors
 19 while acting within the course and scope of their board related work.

20 (7) All hearings, investigations or proceedings conducted by the board
 21 shall be conducted in conformity with chapter 52, title 67, Idaho Code, and
 22 rules of the board adopted pursuant thereto, and, unless otherwise requested
 23 by the concerned party, be subject to disclosure according to ~~chapter 3, ti-~~
 24 ~~tle 9~~ chapter 1, title 74, Idaho Code.

25 SECTION 134. That Section 54-918, Idaho Code, be, and the same is hereby
 26 amended to read as follows:

27 54-918. EXAMINATIONS -- CERTIFICATE OF QUALIFICATION. (1) An appli-
 28 cant for licensure shall pass such examinations in dentistry and in dental
 29 hygiene as are conducted by the board or its agent. Examinations shall be
 30 written or clinical, or both, and upon such subjects in dentistry and den-
 31 tal hygiene as the board shall determine will thoroughly test the fitness
 32 and ability of the applicant to practice dentistry or dental hygiene. An ap-
 33 plicant for licensure shall pass the written jurisprudence examination con-
 34 ducted by the board. A passing score of seventy-five percent (75%) correct
 35 shall be required on the written jurisprudence examination. A passing score
 36 of at least seventy-five percent (75%) correct shall be required on any ad-
 37 ditional written or clinical examinations conducted by the board. It shall
 38 report and record the names of applicants who pass and of those who fail the
 39 examinations. Upon the candidate's request, the board will issue to each
 40 passing applicant in dentistry, who is qualified for Idaho licensure, a cer-
 41 tificate of qualification to practice dentistry, and to each passing appli-
 42 cant in dental hygiene, who is qualified for Idaho licensure, a certificate
 43 of qualification to practice dental hygiene within the state of Idaho.

44 (2) In lieu of conducting written examinations other than the ju-
 45 risprudence examination, the board may require and accept the results of the
 46 national board dental and dental hygiene examinations administered by the
 47 American dental association. The American dental association shall set the
 48 standards for passing the national board dental and dental hygiene examina-
 49 tions. In lieu of conducting clinical examinations, the board may require

1 and accept the results of clinical examinations administered by national
 2 or regional testing organizations approved by the board. The national or
 3 regional testing organizations shall set the standards for passing or ac-
 4 ceptable level of competency on the clinical examinations administered.

5 (3) Applicants who fail any examination conducted by the board or its
 6 agent shall be notified thereof in writing by the board, which shall also
 7 record the fact of failure and the date and means of notification.

8 (4) Written questions and answers of applicants shall be subject
 9 to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho
 10 Code, unless exempt from disclosure in that chapter and title, and shall be
 11 destroyed by the board after the period of one (1) year following the exam-
 12 ination.

13 SECTION 135. That Section 54-934, Idaho Code, be, and the same is hereby
 14 amended to read as follows:

15 54-934. PEER REVIEW COMMITTEES -- IMMUNITY FROM LIABILITY -- CONFI-
 16 DENTIALITY OF RECORDS. (1) The state board of dentistry or the Idaho state
 17 dental association or both may establish one (1) or more peer review commit-
 18 tees pursuant to this section, for the purpose of:

19 (a) Determining the relevancy of a dentist's usual and reasonable fees
 20 or treatment procedure to the terms of a contract;

21 (b) Assessing the quality of services rendered; or

22 (c) Evaluating claims against dentists or engaging in underwriting de-
 23 cisions in connection with professional liability insurance coverage
 24 for dentists.

25 (2) The board or the associations, any one (1) of which has established
 26 a peer review committee pursuant to law, any committee member or any staff
 27 member of either the board or of the associations assisting a peer review
 28 committee, and any witness or consultant appearing before or presenting in-
 29 formation to a peer review committee shall be immune from liability in any
 30 civil action brought as a result of a peer review investigation or proceeding
 31 conducted by a peer review committee, if the board, association, committee
 32 or staff member, witness or consultant, acts in good faith within the scope
 33 of the function of the committee, has made a reasonable effort to obtain the
 34 facts of the matter as to which the board or association or he acts, in the
 35 reasonable belief that the action taken is warranted by the facts.

36 (3) Any entity, organization or person acting without malice in making
 37 any report or other information available to a peer review committee, or who
 38 assists in the origination, investigation or preparation of that informa-
 39 tion, or assists a committee in carrying out any of its duties or functions,
 40 shall be immune from civil liability for any such actions.

41 (4) Any communications or information relating to peer committee in-
 42 vestigations or proceedings as provided by law, and the proceedings and
 43 records of the committee related to them, shall be subject to disclosure
 44 according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, unless ex-
 45 empt from disclosure in that chapter and title, and shall not be subject to
 46 discovery or introduced into evidence in any civil action against a dentist
 47 arising out of matters which are the subject of evaluation and review by the
 48 committee.

1 SECTION 136. That Section 54-1210, Idaho Code, be, and the same is
2 hereby amended to read as follows:

3 54-1210. RECORDS AND REPORTS. (1) The board shall keep a record of its
4 proceedings and a record of all applications for licensure or certification,
5 which record shall show: the name, date of birth and last known address of
6 each applicant; the date of the application; the place of business of such
7 applicant; his education, experience and other qualifications; type of
8 examination required; whether or not the applicant was rejected; whether
9 or not a certificate or license was granted; the dates of the action of the
10 board; and any other information as may be deemed necessary by the board.

11 (2) The records of the board shall be prima facie evidence of the pro-
12 ceedings of the board set forth therein, and minutes thereof, duly certified
13 by the secretary of the board under seal, shall be admissible in evidence
14 with the same force and effect as if the original were produced.

15 (3) Annually the board shall submit to the governor a report of its
16 activities of the preceding year, and shall also transmit to him a summary
17 statement of the receipts and expenditures of the board.

18 (4) Board records and papers are subject to disclosure according to
19 ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

20 SECTION 137. That Section 54-1406A, Idaho Code, be, and the same is
21 hereby amended to read as follows:

22 54-1406A. CERTIFIED MEDICATION ASSISTANT (MA-C). (1) Effective July
23 1, 2008, an individual registered as a nursing assistant, without substanti-
24 ated charges, on the nursing assistant registry currently maintained by the
25 Idaho department of health and welfare, may, with additional education and
26 training as set forth in rule as established by the board, become a certified
27 medication assistant (MA-C) permitted to administer medications as pre-
28 scribed by an authorized provider within the parameters set forth in rule. A
29 licensed nurse shall supervise the certified medication assistant.

30 (2) The board shall adopt rules regarding the certification of cer-
31 tified medication assistants, including rules applicable to education,
32 training and other qualifications for certification that will ensure that
33 the certified medication assistant is competent to perform safely within the
34 range of authorized functions.

35 (3) The board shall maintain a public registry of the names and ad-
36 dresses of all certified medication assistants.

37 (4) The board is authorized to impose and collect initial application
38 and two (2) year renewal fees, as well as reinstatement fees, not to exceed
39 one hundred dollars (\$100), as determined by board rule. Fees collected
40 pursuant to this section shall be deposited in the state board of nursing
41 account for the administration of examinations, evaluations and investiga-
42 tions of applicants, issuance of certifications, evaluation of education
43 and training programs, duplication and verification of records, and other
44 administrative expenses.

45 (5) The board shall adopt by rule an application process.

46 (a) The application process shall include conducting a state and fed-
47 eral criminal background check on all applicants seeking certification
48 pursuant to this section.

1 (b) All applicants for original certification or for certification re-
2 instatement shall submit to a fingerprint-based criminal history check
3 of both the Idaho central criminal database and the federal bureau of
4 investigation criminal history database. All such applicants shall
5 submit a full set of their fingerprints and any relevant fees directly
6 to the Idaho board of nursing for forwarding to the appropriate law
7 enforcement agency for processing. Criminal background reports re-
8 ceived by the board from the Idaho state police and the federal bureau
9 of investigation shall be used only for licensing decisions and handled
10 and disposed of in a manner consistent with requirements imposed by the
11 Idaho state police and the federal bureau of investigation.

12 (c) Upon meeting all requirements and upon the successful completion of
13 additional education, training and competency assessment prescribed by
14 rule, an applicant shall be certified as a certified medication assis-
15 tant (MA-C).

16 (6) A person may not use the title "certified medication assistant" or
17 the abbreviation "MA-C" unless such person has been duly certified pursuant
18 to this section.

19 (7) The board shall adopt rules governing the approval of education and
20 training programs for certified medication assistants.

21 (8) The board shall set forth in rule criteria for acceptable certified
22 medication assistant competency evaluations.

23 (9) (a) For any one (1) or a combination of grounds for discipline as
24 set forth in paragraph (b) of this subsection, the board shall have the
25 authority to:

26 (i) File a letter of concern if the board believes there is insuf-
27 ficient evidence to support direct action against a certified med-
28 ication assistant;

29 (ii) Deny certification or recertification, suspend, revoke,
30 place on probation, reprimand, limit, restrict, condition or ac-
31 cept the voluntary surrender of a certificate issued pursuant to
32 this section if a certified medication assistant commits an act
33 that constitutes grounds for discipline;

34 (iii) Refer criminal violations of this section to the appropriate
35 law enforcement agency;

36 (iv) Impose a civil penalty of not more than one hundred dollars
37 (\$100) per violation; and

38 (v) Recover costs of investigation and disciplinary proceedings,
39 including attorney's fees.

40 (b) Grounds for discipline shall include:

41 (i) Substance abuse or dependency;

42 (ii) Client abandonment, neglect or abuse;

43 (iii) Fraud or deceit, which may include, but is not limited to:

44 (A) Filing false credentials;

45 (B) Falsely representing facts on an application for ini-
46 tial certification, renewal or reinstatement; and

47 (C) Giving or receiving assistance in taking the competency
48 evaluation;

49 (iv) Boundary violations;

50 (v) Performance of unsafe client care;

- 1 (vi) Performing acts beyond the range of authorized functions or
 2 beyond those tasks delegated under the provisions of this section;
 3 (vii) Misappropriation or misuse of property;
 4 (viii) Obtaining money or property of a client, resident or other
 5 person by theft, fraud, misrepresentation or duress committed
 6 during the course of employment as a certified medication assis-
 7 tant;
 8 (ix) Criminal conviction of a misdemeanor that directly relates
 9 to or affects the functions of a certified medication assistant or
 10 conviction of any felony as set forth in rule;
 11 (x) Failure to conform to the standards of a certified medication
 12 assistant;
 13 (xi) Putting clients at risk of harm; and
 14 (xii) Violating the privacy or failing to maintain the confiden-
 15 tiality of client or resident information.

16 (10) The board shall comply with the provisions of the Idaho administra-
 17 tive procedure act, chapter 52, title 67, Idaho Code, in taking any disci-
 18 plinary action against a certified medication assistant and shall maintain
 19 records of any such disciplinary action, which records shall be available
 20 for public inspection to the same extent as records regarding disciplinary
 21 proceedings against nurses and as otherwise consistent with ~~chapter 3, title~~
 22 9 chapter 1, title 74, Idaho Code.

23 (11) The board shall notify the Idaho nursing assistant registry of any
 24 disciplinary action taken against a certified medication assistant pursuant
 25 to this section.

26 SECTION 138. That Section 54-1413, Idaho Code, be, and the same is
 27 hereby amended to read as follows:

28 54-1413. DISCIPLINARY ACTION. (1) Grounds for discipline. The board
 29 shall have the power to refuse to issue, renew or reinstate a license is-
 30 sued pursuant to this chapter, and may revoke, suspend, place on probation,
 31 reprimand, limit, restrict, condition or take other disciplinary action
 32 against the licensee as it deems proper, including assessment of the costs
 33 of investigation and discipline against the licensee, upon a determination
 34 by the board that the licensee engaged in conduct constituting any one (1) of
 35 the following grounds:

- 36 (a) Made, or caused to be made, a false, fraudulent or forged state-
 37 ment or representation in procuring or attempting to procure a license
 38 to practice nursing;
 39 (b) Practiced nursing under a false or assumed name;
 40 (c) Is convicted of a felony or of any offense involving moral turpi-
 41 tude;
 42 (d) Is or has been grossly negligent or reckless in performing nursing
 43 functions;
 44 (e) Habitually uses alcoholic beverages or drugs as defined by rule;
 45 (f) Is physically or mentally unfit to practice nursing;
 46 (g) Violates the provisions of this chapter or rules and standards of
 47 conduct and practice as may be adopted by the board;
 48 (h) Otherwise engages in conduct of a character likely to deceive,
 49 defraud or endanger patients or the public, which includes, but is not

1 limited to, failing or refusing to report criminal conduct or other con-
2 duct by a licensee that endangers patients;

3 (i) Has been disciplined by a nursing regulatory authority in any ju-
4 risdiction. A certified copy of the order entered by the jurisdiction
5 shall be prima facie evidence of such discipline;

6 (j) Failure to comply with the terms of any board order, negotiated set-
7 tlement or probationary agreement of the board, or to pay fines or costs
8 assessed in a prior disciplinary proceeding; or

9 (k) Engaging in conduct with a patient that is sexual, sexually ex-
10 ploitative, sexually demeaning or may reasonably be interpreted as
11 sexual, sexually exploitative or sexually demeaning; or engaging in
12 conduct with a former patient that is sexually exploitative or may
13 reasonably be interpreted as sexually exploitative. It would not be a
14 violation under this subsection for a nurse to continue a sexual rela-
15 tionship with a spouse or individual of majority if a consensual sexual
16 relationship existed prior to the establishment of the nurse-patient
17 relationship.

18 (2) Separate offense. Each day an individual violates any of the provi-
19 sions of this chapter or rules and standards of conduct and practice as may be
20 adopted by the board shall constitute a separate offense.

21 (3) Proceedings.

22 (a) The executive director shall conduct such investigations and ini-
23 tiate such proceedings as necessary to ensure compliance with this
24 section. The board may accept the voluntary surrender of a license
25 from any nurse under investigation and accordingly enter an order re-
26 voking or suspending such license and/or imposing such conditions,
27 limitations, or restrictions on the practice of any such nurse as may
28 be appropriate in the discretion of the board. Otherwise, every person
29 subject to disciplinary proceedings shall be afforded an opportunity
30 for hearing after reasonable notice. All proceedings hereunder shall
31 be in accordance with chapter 52, title 67, Idaho Code.

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

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

1 (4) Probation/Subsequent review. Any order of the board entered un-
 2 der this section may be withheld or suspended for a probationary period to be
 3 fixed by the board upon such terms and conditions as may be appropriate in or-
 4 der to regulate, monitor and/or supervise the practice of nursing by the li-
 5 censee subject to such order for the prescribed probationary period. Any or-
 6 der of the board entered under this section may be withdrawn, reversed, mod-
 7 ified or amended upon a showing by the person subject to the order that the
 8 grounds for discipline no longer exist or that he is rehabilitated, quali-
 9 fied and competent to practice nursing and that he is not likely to violate
 10 this chapter or rules adopted hereunder in the future. The board may, as a
 11 condition to withdrawal, reversal, modification or amendment of the order,
 12 require the person to pay all or part of the costs incurred by the board in
 13 proceedings upon which the order was entered.

14 (5) Reporting investigative information.

15 (a) Nothing in section ~~9-340C~~ 74-106(8) and (9), Idaho Code, shall be
 16 construed as limiting the authority of the board to report current sig-
 17 nificant investigative information to the coordinated licensure infor-
 18 mation system for transmission to states that are parties to any multi-
 19 state agreements or compacts regarding nurse licensure.

20 (b) The executive director of the board may, in the administration of
 21 this chapter, share information and otherwise cooperate with govern-
 22 ment regulatory and law enforcement agencies.

23 SECTION 139. That Section 54-1715, Idaho Code, be, and the same is
 24 hereby amended to read as follows:

25 54-1715. MEETINGS OF THE BOARD. (1) The board of pharmacy shall meet at
 26 least once every six (6) months to transact its business. One such meeting
 27 held during each fiscal year of the state shall be designated as the annual
 28 meeting and shall be for the purpose of electing officers and for the reor-
 29 ganization of the board. The board shall meet at such additional times as it
 30 may determine. Such additional meetings may be called by the chairman of the
 31 board or by three (3) of the members of the board.

32 (2) The board shall meet at such place as it may from time to time deter-
 33 mine. The place for each meeting shall be determined prior to giving notice
 34 of such meeting and shall not be changed after such notice is given without
 35 adequate subsequent notice.

36 (3) Notice of all meetings of the board shall be given in the manner
 37 and pursuant to requirements prescribed by the state's applicable statutes,
 38 rules and regulations.

39 (4) A majority of the members of the board shall constitute a quorum for
 40 the conduct of a board meeting and, except where a greater number is required
 41 by the act, or by any rule or regulation of the board, all actions of the board
 42 shall be by a majority of a quorum.

43 (5) All meetings and hearings of the board shall be conducted in compli-
 44 ance with the provisions of ~~sections 67-2340 through 67-2347~~ chapter 2, ti-
 45 tle 74, Idaho Code.

46 SECTION 140. That Section 54-1806, Idaho Code, be, and the same is
 47 hereby amended to read as follows:

1 54-1806. POWERS AND DUTIES. The board shall have the authority to:

2 (1) Hire or appoint employees, including an executive director, inves-
3 tigators, attorneys, consultants and independent hearing examiners.

4 (2) Establish pursuant to the administrative procedure act rules for
5 administration of this chapter, including rules governing all activities of
6 persons employed as physician's assistants by persons licensed to practice
7 medicine in this state. The board shall adopt rules pursuant to the adminis-
8 trative procedure act establishing procedures for the receipt of complaints
9 and for the investigation and disposition thereof. Such rules shall provide
10 for notice to a person when the board has authorized the committee to inves-
11 tigate that person and shall provide an opportunity for a person under in-
12 vestigation to meet with the committee or its staff before the initiation of
13 formal disciplinary proceedings by the board.

14 (3) Conduct investigations and examinations and hold hearings as au-
15 thorized by this section and by section 54-1806A, Idaho Code.

16 (4) The board shall have the power in any investigation or disciplinary
17 proceeding pursuant to this chapter to administer oaths, take depositions
18 of witnesses within or without the state in the manner consistent with rules
19 adopted by the board pursuant to the administrative procedure act, and upon a
20 determination that there is good cause the board shall have power throughout
21 the state of Idaho to require the attendance of such witnesses and the pro-
22 duction of such books, records, and papers as it may deem appropriate for any
23 investigation, deposition or hearing. For that purpose the board may issue
24 a subpoena for any witnesses or a subpoena duces tecum to compel the produc-
25 tion of any books, records or papers, directed to the sheriff of any county
26 of the state of Idaho, where such witness resides, or may be found, which
27 shall be served and returned in the same manner as a subpoena in a criminal
28 case is served and returned. The fees and mileage of the witnesses shall be
29 the same as that allowed in the district courts in criminal cases, which fees
30 and mileage shall be paid from any funds in the state treasury in the same
31 manner as other expenses of the board are paid. In any case of disobedience
32 to, or neglect of, any subpoena or subpoena duces tecum served upon any per-
33 son, or the refusal of any witness to testify to any matter regarding which
34 he may lawfully be interrogated, it shall be the duty of the district court of
35 any county in this state in which such disobedience, neglect or refusal oc-
36 curs, or any judge thereof, on application by the board to compel compliance
37 with the subpoena by proceedings for contempt as in the case of disobedience
38 of the requirements of a subpoena issued from such court or for refusal to
39 testify therein. The licensed person accused in such formal contested case
40 shall have the same right of subpoena upon making application to the board
41 therefor.

42 (5) Seek injunctive relief prohibiting the unlawful practice of
43 medicine.

44 (6) Make and enter into contracts.

45 (7) Operate, manage, superintend and control the licensure of physi-
46 cians.

47 (8) Develop and submit a proposed budget setting forth the amount nec-
48 essary to perform its functions.

49 (9) Perform such other duties as set forth in the laws of this state.

1 (10) Provide such other services and perform such other functions as are
2 necessary to fulfill its responsibilities.

3 (11) Provide for reasonable fees through rules for administrative costs
4 and assess costs reasonably and necessarily incurred in the enforcement of
5 this chapter when a licensee has been found to be in violation of the provi-
6 sions of this chapter.

7 (12) Prepare an annual report.

8 (13) Share with the department of labor personal identifying informa-
9 tion of persons licensed under the provisions of this chapter necessary for
10 the department of labor to identify workforce shortage areas in Idaho. The
11 information provided to the department of labor concerning any person li-
12 censed under this chapter shall remain confidential and not subject to pub-
13 lic disclosure, as required in section ~~9-340C~~ 74-106, Idaho Code.

14 SECTION 141. That Section 54-1806A, Idaho Code, be, and the same is
15 hereby amended to read as follows:

16 54-1806A. MEDICAL DISCIPLINARY ENFORCEMENT. The board of medicine
17 shall create a committee on professional discipline which shall have the
18 authority under the direct supervision and control of the board to conduct
19 professional disciplinary enforcement investigations under this chapter
20 and particularly under sections 54-1810 and 54-1814, Idaho Code, and to rec-
21 ommend appropriate action to the board with respect thereto. The committee
22 on professional discipline shall have no authority to impose sanctions or
23 limitations or conditions on licenses issued under this chapter and shall be
24 authorized only to make recommendations to the board with respect thereto.
25 The board shall provide as follows respecting the committee on professional
26 discipline:

27 (1) Membership. The committee shall consist of five (5) members ap-
28 pointed by the board. Initially, it shall consist of the members of the board
29 of professional discipline as it is constituted on the effective date of
30 this act who shall serve on the committee on professional discipline until
31 the expiration of their current terms. Thereafter, it shall consist of four
32 (4) members licensed to practice medicine and surgery in the state of Idaho,
33 two (2) of whose terms shall expire at midnight on June 30 in each of two (2)
34 successive years, and one (1) member who is an adult Idaho citizen of good
35 character and reputation who shall not be licensed to practice medicine and
36 surgery in the state of Idaho, whose term shall expire at midnight on June
37 30 in the year in which no physician member's term shall expire. All terms
38 of appointment shall be for three (3) years. No member of the committee on
39 professional discipline may be appointed after the effective date of this
40 act to serve more than two (2) terms (which shall include terms served on the
41 board of professional discipline prior to the effective date of this act).

42 (2) Chairman. The board of medicine shall designate one (1) member of
43 the committee as its chairman who shall serve and function in that capacity
44 for one (1) year or until a successor is duly appointed, whichever is later.

45 (3) Quorum. Three (3) members shall constitute a quorum though no
46 meeting of the committee shall be held without reasonable prior notice of at
47 least three (3) days to all members, which notice may be given by the chairman
48 or any three (3) members. Notice may be waived unanimously; otherwise, it
49 shall be in writing and state the time, place and purpose of the meeting.

1 (4) Compensation. Members of the committee shall be compensated as
2 provided by section 59-509(n), Idaho Code, from the state board of medicine
3 fund for expenses incurred in the course of serving on the committee.

4 (5) Conflicts and Disqualification. Members shall disqualify them-
5 selves and, on motion of any interested party may, on proper showing, be
6 disqualified in any proceeding concerning which they have an actual conflict
7 of interest or bias which interferes with their fair and impartial service.

8 (6) Additional Powers of the Committee on Professional Discipline. In
9 addition to its other powers, the committee shall be empowered and autho-
10 rized:

11 (a) To recommend to the board that it be authorized by the board to ini-
12 tiate or commence proceedings, studies or investigations, to investi-
13 gate or inquire into misconduct or unprofessional behavior and to rec-
14 commend that the board take such action with respect thereto as it deems
15 best in the interest of the public and justice, and to obtain the assis-
16 tance of staff and legal counsel hired by the board of medicine to admin-
17 ister, process and assist in its work.

18 (b) To recommend to the board that it be authorized by the board to ap-
19 point hearing officers or hearing committees to take evidence, conduct
20 hearings and make recommended findings and conclusions to the committee
21 in any matter or proceeding assigned to the committee, which hearing
22 committees shall be of such number and size as the board directs, com-
23 posed of licensed physicians resident and licensed to practice medicine
24 and surgery in Idaho, who shall serve without pay and for such term as
25 the board may specify, not to exceed one (1) year or during the pendency
26 of any matters referred to it, whichever is longer. All investigations
27 and proceedings of the committee and any hearing officers or hearing
28 committees shall be conducted as provided by rules adopted by the board
29 of medicine pursuant to the administrative procedure act, chapter 52,
30 title 67, Idaho Code.

31 (c) To recommend findings respecting matters coming before it or be-
32 fore any hearing committee or authorized hearing officer acting on its
33 behalf, and to recommend conclusions and orders for the consideration
34 of the board dispositive of such proceedings. The committee may make
35 recommendations for the consideration of the board and the board is
36 authorized to enter appropriate orders and take appropriate action in-
37 cluding, without limitation, disciplinary orders as provided by Idaho
38 Code respecting misconduct or other grounds for discipline respecting
39 any licensed physician and surgeon licensed to practice medicine and
40 surgery in the state of Idaho, which authority shall, for good cause
41 shown, include the power to suspend, restrict, condition, limit or
42 revoke the license or present or future right or privilege to practice
43 medicine of any physician, surgeon or other person licensed or purport-
44 ing to be qualified or authorized to practice medicine and surgery in
45 the state of Idaho.

46 (d) To recommend that the board reprimand by informal admonition any
47 licensed physician and surgeon respecting any matter it finds is minor
48 misconduct. Such reprimand shall be subject to disclosure according to
49 ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

1 (e) To recommend that the board accept the resignation and surrender of
2 license of any physician and surgeon under investigation or prosecution
3 who tenders the same, and to impose terms and conditions in connection
4 therewith as it may deem appropriate in the best interest of the public
5 and of justice.

6 (f) To recommend that the board order, for good cause, nondisciplinary
7 suspension or transfer to inactive status of any licensed physician
8 and surgeon incapacitated by illness, senility, disability, or addic-
9 tion to drugs, intoxicants or other chemical or like substances, and to
10 provide terms and conditions therefor, including provisions and con-
11 ditions controlling reinstatement and any request therefor; provided,
12 this subparagraph shall not be construed to amend or repeal specific
13 legislation expressly dealing with disabled physicians whether hereto-
14 fore or hereafter enacted by the legislature of the state of Idaho but
15 rather shall be construed as complementary thereto.

16 (g) To recommend that the board provide by order for reciprocal disci-
17 pline in cases involving the discipline of a licensed physician and sur-
18 geon disciplined in any other jurisdiction, provided that such licensee
19 or applicant shall be entitled to appear and show cause why such order
20 should not apply in his or her case.

21 (h) To recommend that the board adopt rules to provide for and permit
22 the committee to conduct informal proceedings to encourage fair and
23 expeditious disposition of business, complaints and matters properly
24 coming before it.

25 (7) Openness. All formal hearings conducted by the board or by the com-
26 mittee under the board's direction and control shall be open to the public.
27 Formal dispositions or other formal actions taken by the board under sec-
28 tions 54-1806 and 54-1806A, Idaho Code, also shall be public. Proceedings,
29 studies and investigations which do not result in formal hearings, formal
30 dispositions or other formal actions by the board shall be conducted in pri-
31 vate and shall remain confidential.

32 (8) Voluntary Restriction of Licensure. A physician may request in
33 writing to the board or the committee a restriction of his license to prac-
34 tice medicine and the board is authorized to grant such request and, if it
35 deems it appropriate to do so, to attach conditions to the licensure of the
36 physician to practice medicine. The board is also authorized in such cases
37 thereafter to waive the commencement of proceedings under this act or other
38 provisions of the medical practice act if in the interest of justice it
39 determines that such voluntary proceedings have rendered the same unnec-
40 essary. Removal of a voluntary restriction on or suspension of licensure
41 to practice medicine shall be subject to the procedures for reinstatement
42 elsewhere in this act, in the medical practice act or by rule of the board;
43 provided also, such reinstatements may be subject to further conditions
44 specially imposed in the individual case as a condition of the order entered
45 therein.

46 (9) Adjudication of Discipline or Exoneration. The board shall make a
47 determination of the merits of all proceedings, studies and investigations
48 and, if grounds therefor are found to exist, may issue its order:

49 (a) Revoking the respondent physician's license to practice medicine;

1 (b) Suspending or restricting the respondent physician's license to
2 practice medicine;

3 (c) Imposing conditions or probation upon the respondent physician and
4 requiring rehabilitation planning, commitment and conditions upon such
5 respondent physician's licensure;

6 (d) Imposing an administrative fine not to exceed ten thousand dollars
7 (\$10,000) for each count or offense; and/or

8 (e) Assessing costs and attorney's fees against the respondent physi-
9 cian for any investigation and/or administrative proceeding.

10 If grounds for any of the foregoing are not found to exist, the board shall
11 enter its order so stating and dismissing the proceedings and shall provide
12 the respondent and, if there be one, the complainant or petitioner in the
13 proceedings a true copy thereof.

14 (10) Temporary Suspension or Restriction Pending Final Order. The
15 board may temporarily suspend or restrict the license of any physician or en-
16 ter an appropriate order of temporary probation, ex parte, on its own motion
17 or on verified petition of any person, pending further or final order, with-
18 out prior hearing, simultaneously with or at any time after the institution
19 of proceedings under this chapter, but only if it first finds, on the basis of
20 a responsible showing which satisfactorily demonstrates that the physician
21 in his capacity as such and for reasons set forth by petition, affidavit, or
22 other verified showing, or determined by it in reliance upon other reliable
23 proof, is causing great harm to the public or to any patient or group of pa-
24 tients, or is imminently likely to cause such harm, for which reason he or
25 she and his or her license to practice medicine should be immediately sus-
26 pended or restricted or he or she should be specially controlled, suspended
27 in or restricted from the practice of medicine. In such cases, the board may
28 summarily, and ex parte, order temporary conditions of probation, suspen-
29 sion or restriction of said physician and his or her license and authority
30 to practice medicine in the state of Idaho, pending further or final order
31 in the proceedings. Thereafter the physician may, for good cause, request
32 dissolution or amendment of any such temporary order by petition filed with
33 the board, which petition shall be set for prompt hearing before the board or
34 a designated hearing officer or special committee appointed by the board for
35 that purpose, which officer or committee shall forthwith hear said matter
36 and report to the board its report and recommendations. The board, con-
37 sistent with due process and the rules adopted by the board pursuant to the
38 administrative procedure act, chapter 52, title 67, Idaho Code, shall rule
39 on such petition for dissolution or amendment with the least amount of delay
40 reasonably possible. Neither the record of the proceeding nor any order en-
41 tered therein may be used against the respondent physician in any other legal
42 proceeding except upon judicial review as provided elsewhere herein.

43 (11) Judicial Review. All final decisions by the board shall be subject
44 to judicial review pursuant to the procedures of the administrative proce-
45 dure act, chapter 52, title 67, Idaho Code.

46 (12) Protected Action and Communication. There shall be no liability on
47 the part of and no action for damages against:

48 (a) Any member of the board, the committee on professional discipline
49 or the staff or officials thereof for any action undertaken or performed
50 within the scope of the functions of the board or the committee under

1 this chapter when acting without malice and in the reasonable belief
2 that such action is warranted; or
3 (b) Any person providing information or testimony to the board, the
4 committee, or their staff or officials without malice and in the reason-
5 able belief that such information is accurate.

6 SECTION 142. That Section 54-1820, Idaho Code, be, and the same is
7 hereby amended to read as follows:

8 54-1820. ACCESS TO RECORDS. All papers, records, correspondence, com-
9 munications and proceedings of the Idaho state board of medicine shall be
10 open and public except as otherwise provided in ~~chapter 3, title 9~~ chapter 1,
11 title 74, Idaho Code.

12 SECTION 143. That Section 54-1837, Idaho Code, be, and the same is
13 hereby amended to read as follows:

14 54-1837. PROCEEDINGS. (a) The board may proceed against a physician
15 under this act by serving upon such physician at least fifteen (15) days' no-
16 tice of a time and place fixed for a hearing, together with copies of the ex-
17 amining committee's report and diagnosis. Such notice and reports shall be
18 served upon the physician either personally or by registered or certified
19 mail with return receipt requested.

20 (b) At said hearing the physician shall have the right to be present, to
21 be represented by counsel, to produce witnesses or evidence in his behalf, to
22 cross-examine witnesses, and to have subpoenas issued by the board.

23 (c) At the conclusion of the hearing, the board shall make a determina-
24 tion of the merits and, if grounds therefor are found to exist, may issue an
25 order imposing one or more of the following:

26 (1) Make a recommendation that the physician submit to the care, coun-
27 seling, or treatment by physicians acceptable to the board; or

28 (2) Suspend or restrict the license of the physician to practice
29 medicine for the duration of his impairment; or

30 (3) Revoke the license of the physician to practice medicine; and
31 if grounds are not found to exist, the board shall enter its order so stating,
32 shall dismiss the proceedings and shall provide the respondent a true copy
33 thereof.

34 (d) The board may temporarily suspend or restrict the license of any
35 physician or enter an appropriate order of temporary probation, ex parte, on
36 its own motion or on petition of the examining committee, pending further or
37 final order without prior hearing, simultaneously with or at any time after
38 the institution of proceedings for a hearing under this section, but only if
39 it first finds, on the basis of a responsible showing which satisfactorily
40 demonstrates that the physician, in his capacity as such and for reasons set
41 forth by petition, affidavit, or other verified showing, is causing great
42 harm to the public, or to any patient or group of patients, or is likely to
43 cause such harm and therefore should be immediately suspended, restricted or
44 specially controlled in or from the practice of medicine.

45 (1) In such cases, the board may summarily, and ex parte, order tempo-
46 rary conditions of probation, suspension or restriction of said physi-

1 cian and his or her license and authority to practice medicine in the
2 state of Idaho, pending further or final order in the proceedings.

3 (2) In cases of extreme emergency the board may enter said temporary or-
4 der under this section without prior referral to or recommendation from
5 the examining committee.

6 (3) In cases in which the examining committee first determines that
7 such temporary suspension, restriction or probation of such physician
8 is necessary and in the public interest pending the final conclusion
9 of proceedings or further order, it shall so recommend to the board,
10 and the board, if it finds that the evidence in support of such de-
11 termination and recommendation is clear and convincing and that the
12 physician's continuation in the practice would constitute an imminent
13 danger to public health and safety or pose a threat or menace of the kind
14 hereinabove specified, may, in its discretion, enter an order in keep-
15 ing with the recommendation of the examining committee or provide such
16 modifications, conditions or orders as it deems appropriate.

17 (4) The physician may, for good cause, request dissolution or amend-
18 ment of any such temporary order by petition filed with the board, which
19 petition shall be set for prompt hearing before the board or, if neces-
20 sary and on request of the physician in the interest of early consider-
21 ation, before a hearing officer or special committee designated by the
22 board for that purpose, which officer or committee shall forthwith hear
23 said matter and report to the board its report and recommendation. The
24 board, consistent with due process, shall rule with the least amount of
25 delay reasonably possible.

26 (e) Neither the record of the proceeding nor any order entered against
27 a physician may be used against him in any other legal proceeding except upon
28 judicial review as provided herein, it being the intent and purpose of this
29 act that all evidence, testimony, showings and proceedings are subject to
30 disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code,
31 but not to be used in criminal or civil proceedings concerning the subject
32 physician.

33 SECTION 144. That Section 54-2080, Idaho Code, be, and the same is
34 hereby amended to read as follows:

35 54-2080. RECORDS -- DISCLOSURE TO PUBLIC. Records kept in the office
36 of the commission under authority of this chapter and chapter 18, title 55,
37 Idaho Code, shall be open to public inspection as provided in ~~chapter 3, ti-
38 tle 9~~ chapter 1, title 74, Idaho Code.

39 SECTION 145. That Section 54-2118, Idaho Code, be, and the same is
40 hereby amended to read as follows:

41 54-2118. VIOLATIONS OF CHAPTER -- REMEDIES AND PENALTIES. In addition
42 to the disciplinary actions set forth in section 54-2115, Idaho Code:

43 (1) Administrative actions.

44 (a) Any person violating the provisions of this chapter, or violating a
45 rule promulgated by the board to implement the provisions of this chap-
46 ter may be fined by the board or its duly authorized agent not more than
47 five thousand dollars (\$5,000) for each offense and shall be liable for

1 investigatory expenses and reasonable paralegal and attorney's fees,
2 and provided that each act on each day of violation shall constitute
3 a separate offense. Imposition of a fine may be made in conjunction
4 with any other board administrative action. No fine may be assessed
5 unless the person charged was given notice and opportunity for a hearing
6 pursuant to the Idaho administrative procedure act. If a person fined
7 fails to fully pay the fine, investigatory expenses or reasonable para-
8 legal and attorney's fees, the board may recover such amount by action
9 in the appropriate district court.

10 (b) Notwithstanding the provisions of subsection (1) (a) of this sec-
11 tion, any person who has violated the recordkeeping or continuing
12 education requirements imposed by this chapter or the rules of the board
13 may, in lieu of disciplinary proceedings under this chapter or the Idaho
14 administrative procedure act, elect to pay the board a civil penalty
15 to be determined by the board, or its authorized agent, in an amount
16 between five hundred dollars (\$500) and one thousand dollars (\$1,000),
17 under the following terms and conditions:

18 (i) The person must not have been disciplined by the board for any
19 reason within the past five (5) years;

20 (ii) The person must not have previously elected to pay a penalty
21 under this section;

22 (iii) The person is not currently on probation by the board;

23 (iv) The person is not currently under investigation by the board
24 for an offense other than the recordkeeping or continuing educa-
25 tion violation; and

26 (v) The person must fully comply with the board's instructions on
27 remedying the recordkeeping or continuing education violation.

28 Upon successful completion of the above terms and conditions and pay-
29 ment of the civil penalty, the violation shall not be considered "dis-
30 cipline," shall not be reported to any national disciplinary database,
31 and documents and records related to the violation shall be exempt from
32 disclosure under ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

33 (2) Civil court proceedings. The board, the attorney general's of-
34 fice, a county prosecuting attorney or any citizen of this state may bring an
35 action in the district court of either Ada county or any county where a viola-
36 tion is occurring, to enjoin any person from practicing veterinary medicine
37 or practicing as a certified veterinary technician, certified euthanasia
38 technician or any agency operating as a certified euthanasia agency without
39 a currently valid, active license, certification, temporary permit or tem-
40 porary certification. If the court finds that the person is violating the
41 provisions of this chapter, it shall enter an injunction restraining that
42 person from such unlawful acts.

43 (3) Criminal actions. Any person who practices veterinary medicine,
44 any person practicing as a certified veterinary technician, a certified eu-
45 thanasia technician or any agency operating as a certified euthanasia agency
46 without a currently valid, active license, certification, temporary permit
47 or temporary certification shall be guilty of a misdemeanor and upon convic-
48 tion or withheld judgment shall be fined not less than one hundred dollars
49 (\$100), nor more than ten thousand dollars (\$10,000), or incarcerated for no
50 more than one hundred eighty (180) days, or both fined and incarcerated, and

1 provided that each act of such unlawful practice shall constitute a distinct
2 and separate offense.

3 (4) The remedies set forth in this section are not mutually exclusive
4 and a successful action on any one (1) remedy does not preclude action on some
5 or all of the other remedies.

6 SECTION 146. That Section 54-2221, Idaho Code, be, and the same is
7 hereby amended to read as follows:

8 54-2221. DISCIPLINARY ACTIONS -- PENALTIES. The board may, upon proof
9 that a person has violated any provision contained in this chapter, take the
10 following disciplinary actions singly or in combination:

11 (1) Issue a censure or reprimand by informal admonition for minor mis-
12 conduct found by the board, which censure or reprimand shall be subject to
13 disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code;

14 (2) Impose restrictions and/or conditions as to scope of practice,
15 place of practice, supervision of practice, duration of licensed status, or
16 type or condition of patient or client served. The board may require a li-
17 censee to report regularly to the board on matters regarding the restricted
18 license;

19 (3) Suspend a license, the duration of which shall be determined by the
20 board;

21 (4) Revoke a license;

22 (5) Refuse to issue or renew a license;

23 (6) Impose a reasonable fine for violation of this chapter in an amount
24 not to exceed a maximum amount as set forth in the administrative rules
25 adopted by the board;

26 (7) Accept a voluntary surrender of a license;

27 (8) Assess costs and attorney's fees against a licensee for any inves-
28 tigation and/or administrative proceeding.

29 SECTION 147. That Section 54-2601, Idaho Code, be, and the same is
30 hereby amended to read as follows:

31 54-2601. DECLARATION OF POLICY AND PURPOSE OF ACT -- IDAHO STATE
32 PLUMBING CODE. (1) The purpose of this act is to provide certain minimum
33 standards and requirements for the use of and the design, construction,
34 installation, improvement, extension and alteration of materials, piping,
35 venting, fixtures, appliances and appurtenances in relation to plumbing and
36 plumbing systems hereinafter defined, and to provide that all plumbing and
37 plumbing systems in the state shall be designed, constructed, installed, im-
38 proved, extended and altered in substantial accord with the uniform plumbing
39 code published by the international association of plumbing and mechanical
40 officials, and as it shall be amended, revised, compiled and published from
41 time to time and as subsequent editions, amendments or revisions thereto
42 shall be adopted by the Idaho plumbing board through the negotiated rulemak-
43 ing process. Any amendments, revisions or modifications made to the uniform
44 plumbing code by the board shall be made by administrative rules promulgated
45 by the board. The uniform plumbing code together with any amendments, revi-
46 sions or modifications made by the board shall collectively constitute and
47 be named the Idaho state plumbing code. The board shall conduct a minimum

1 of two (2) public hearings with notice of such public hearings provided in
2 accordance with the provisions of section ~~67-2343~~ 74-204, Idaho Code.

3 (2) Cities electing to implement a plumbing code enforcement program
4 shall do so only in compliance with the provisions of this section. Cities
5 may elect to implement a plumbing enforcement program by passing an ordi-
6 nance evidencing the intent to do so. Cities that perform plumbing code
7 enforcement activities shall, except as provided in subsection (3) of this
8 section, by ordinance adopt the uniform plumbing code together with any
9 amendments thereto made by the board, which shall collectively constitute
10 and be named the Idaho state plumbing code. The effective date of any edition
11 of the code adopted by the board shall be January 1 of the year following its
12 adoption.

13 (3) Cities may further amend the Idaho state plumbing code adopted by
14 the board in conformance with this section to address local concerns pro-
15 vided that such amendments prescribe at least an equivalent level of protec-
16 tion to that contained in the uniform plumbing code. Provided however, that
17 no code other than the uniform plumbing code together with any amendments,
18 revisions or modifications made by the board which collectively constitute
19 the Idaho state plumbing code may serve as the minimum standard for plumbing
20 installations in such city. A city electing to amend the Idaho state plumb-
21 ing code as adopted by the board may do so only after a finding by the city
22 that good cause exists for such an amendment and that such amendment is rea-
23 sonably necessary. Prior to making a finding of good cause for such an amend-
24 ment, the city shall conduct a public hearing. Notice of the time and place
25 of the public hearing shall be published in the official newspaper or paper
26 of general circulation within the city. Written notice of such public hear-
27 ing and the text of the proposed amendment shall be given by the city to the
28 board not less than thirty (30) days prior to such hearing.

29 (4) The remaining provisions of this act shall not apply, except as
30 hereinafter provided, to cities if such cities enact ordinances or codes
31 prescribing the Idaho state plumbing code and amendments it may make thereto
32 in accordance with this section for all plumbing installations which shall
33 be considered the equal minimum standards, and requirements including the
34 enforcement thereof as provided by this act.

35 SECTION 148. That Section 54-3204, Idaho Code, be, and the same is
36 hereby amended to read as follows:

37 54-3204. BOARD -- POWERS AND DUTIES. The board shall have the follow-
38 ing powers and duties:

39 (1) Adopt and amend rules to administer and carry out the provisions
40 of this chapter and for the conduct of its affairs, provided that such rules
41 shall be promulgated in accordance with the provisions of chapters 26 and 52,
42 title 67, Idaho Code;

43 (2) Maintain a list of the names and addresses of all persons licensed
44 under this chapter;

45 (3) At its discretion, contract with the bureau of occupational li-
46 censes for those services deemed necessary for the proper administration of
47 this chapter;

1 (4) To prescribe by rule the minimum amount and kind of continuing edu-
2 cation to be required of each social worker seeking to renew a license in the
3 state of Idaho;

4 (5) To establish by rule an inactive license status;

5 (6) To take such action as may be necessary to enforce the provisions of
6 this chapter and to regulate the practice of social work;

7 (7) To review the practice of a social worker licensed pursuant to this
8 chapter who is the subject of a complaint regarding a potential violation
9 of the provisions of this chapter. This review may include client records,
10 notes of the license holder and other materials related to the practice. The
11 review will remain subject to nondisclosure according to the provisions of
12 ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, unless the written con-
13 sent of the client is received by the board;

14 (8) To establish by rule the standards and requirements for the use of
15 communication technology in the practice of social work, including supervi-
16 sion.

17 SECTION 149. That Section 54-3404, Idaho Code, be, and the same is
18 hereby amended to read as follows:

19 54-3404. IDAHO STATE LICENSING BOARD OF PROFESSIONAL COUNSELORS AND
20 MARRIAGE AND FAMILY THERAPISTS -- POWERS. The board shall have the following
21 powers:

22 (1) To regulate the practice of professional counselors, clinical pro-
23 fessional counselors, associate marriage and family therapists and marriage
24 and family therapists in the state of Idaho.

25 (2) To pass upon the qualifications and fitness of applicants for li-
26 censes and to adopt rules requiring annual continuing education as a condi-
27 tion for the renewal of licenses issued under this chapter.

28 (3) To adopt and from time to time revise such rules as may be neces-
29 sary to carry into effect the provisions of this chapter. Such rules shall
30 include, but not be limited to, a code of ethics for professional counselors
31 and a code of ethics for marriage and family therapists in the state, which
32 shall be adopted in compliance with chapter 52, title 67, Idaho Code.

33 (4) To review the practice of professional counselors, clinical pro-
34 fessional counselors, associate marriage and family therapists and marriage
35 and family therapists licensed under this chapter and charged with a viola-
36 tion of the provisions of this chapter. This review may include the notes of
37 the license holder and other materials related to the practice. The review
38 will remain subject to disclosure according to ~~chapter 3, title 9~~ chapter 1,
39 title 74, Idaho Code, unless the written consent of the client is received by
40 the board.

41 (5) To establish a peer review system whereby each license holder's
42 practice may be reviewed to ensure continuing practice in an appropriate and
43 ethical manner.

44 (6) To examine for, deny, approve, issue, revoke, suspend and renew the
45 licenses of applicants pursuant to this chapter, and to conduct hearings in
46 connection therewith.

47 (7) To conduct hearings to suspend or revoke licenses for violations of
48 the law and rules adopted pursuant to this chapter and cause the prosecution
49 and enjoinder of all such violations.

1 (8) In any proceeding before the board authorized by this chapter, the
2 board or its designee may administer oaths or affirmations to witnesses ap-
3 pearing before it.

4 (9) To authorize, by written agreement, the chief of the bureau of occu-
5 pational licenses as agent to act in its interest.

6 (10) To provide, by rule, licensed professional counselor, licensed
7 clinical professional counselor, licensed associate marriage and family
8 therapist and licensed marriage and family therapist specialty standards.

9 (11) To establish by rule the standards and requirements for the use of
10 communication technology in the practice of counseling and marriage and fam-
11 ily therapy, including supervision.

12 SECTION 150. That Section 54-3913, Idaho Code, be, and the same is
13 hereby amended to read as follows:

14 54-3913. BOARD OF MEDICINE AND BOARD OF ATHLETIC TRAINERS -- POWERS
15 AND DUTIES. (1) The board shall administer, coordinate, and enforce the pro-
16 visions of this chapter, evaluate the qualifications and fitness of appli-
17 cants, and approve the applications for licensure under this chapter, and
18 may issue subpoenas, examine witnesses, and administer oaths, and may inves-
19 tigate practices which are alleged to violate the provisions of this chap-
20 ter. The board of athletic trainers shall evaluate all applicants for qual-
21 ification and fitness for licensure and make recommendations to and consult
22 with the board concerning issuance of licenses, revocation of licenses and
23 rules to be promulgated under this chapter.

24 (2) The board shall, upon recommendation of the board of athletic
25 trainers, adopt rules pursuant to chapter 52, title 67, Idaho Code, relating
26 to professional conduct to carry out the policy of this chapter including,
27 but not limited to, rules relating to professional licensure and to the
28 establishment of ethical standards of practice, disciplinary proceedings,
29 refusal to renew license proceedings, license suspension proceedings, or
30 license revocation proceedings for persons licensed to practice as an ath-
31 letic trainer in this state.

32 (3) The board of athletic trainers shall hold meetings, conduct hear-
33 ings and keep records and minutes as are necessary to carry out its func-
34 tions.

35 (4) Every person licensed as an athletic trainer in Idaho shall be sub-
36 ject to discipline pursuant to the powers set forth in this chapter and the
37 rules of the board of medicine promulgated pursuant thereto. The board of
38 athletic trainers shall have no authority to impose sanctions or limitations
39 or conditions on licenses issued under this chapter and shall be authorized
40 only to make recommendations to the board with respect thereto. Members of
41 the board of athletic trainers shall disqualify themselves and, on motion of
42 any interested party, may on proper showing, be disqualified in any proceed-
43 ing concerning which they have an actual conflict of interest or bias which
44 interferes with their fair and impartial service.

45 (5) In addition to its other powers, the board of athletic trainers
46 shall be empowered and authorized:

47 (a) To recommend that the board reprimand by informal admonition any
48 licensed athletic trainer respecting any matter it finds is minor mis-

1 conduct. Such reprimand shall be subject to disclosure according to
2 ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

3 (b) To recommend that the board order, for good cause, nondisciplinary
4 suspension or transfer to inactive status of any licensed athletic
5 trainer incapacitated by illness, senility, disability, or addiction
6 to drugs, intoxicants or other chemical or like substances, and to
7 provide terms and conditions therefor, including provisions and con-
8 ditions controlling reinstatement and any request therefor; provided,
9 this paragraph shall not be construed to amend or repeal specific leg-
10 islation expressly dealing with disabled athletic trainers whether
11 heretofore or hereafter enacted by the legislature of the state of
12 Idaho, but rather shall be construed as complementary thereto.

13 (c) To recommend that the board accept the resignation and surrender of
14 the license of any athletic trainer under investigation or prosecution
15 who tenders the same, and to impose terms and conditions in connection
16 therewith as it may deem appropriate in the best interests of the public
17 and of justice.

18 (d) To recommend that the board provide by order for reciprocal disci-
19 pline in cases involving a licensed athletic trainer or applicant dis-
20 ciplined in any other jurisdiction, provided that such licensee or ap-
21 plicant shall be entitled to appear and show cause why such order should
22 not apply in his or her case.

23 (e) To recommend that the board provide for reasonable fees through
24 rules for administrative costs and assess costs reasonably and neces-
25 sarily incurred in the enforcement of this chapter when a licensee or
26 applicant has been found to be in violation of this chapter.

27 SECTION 151. That Section 54-4603, Idaho Code, be, and the same is
28 hereby amended to read as follows:

29 54-4603. PATIENT ACCESS TO PROVIDER INFORMATION. (1) Each person who
30 applies for initial licensure or registration as a provider must, at the time
31 of licensure or registration, and each provider who applies for license or
32 registration renewal must, in conjunction with the renewal of a license or
33 registration, and under procedures which shall be adopted by the board, and
34 in addition to any other information that may be required from the applicant,
35 furnish the following information to the board:

36 (a) Names and addresses of medical/professional schools or other in-
37 stitutions of higher learning that provider attended, including any
38 graduate education, and dates of graduation;

39 (b) Speciality certifications that are recognized by the board;

40 (c) Appointments to faculty of any medical/professional school and in-
41 dication whether provider has had a responsibility for graduate educa-
42 tion within the most recent ten (10) years (optional);

43 (d) Location and type of practice for the most recent ten (10) years;

44 (e) Current location of provider's primary practice setting, and if
45 more than one (1) setting, the approximate percentage of time spent at
46 each location;

47 (f) The hospital(s) that serves as the provider's primary admitting fa-
48 cility and at which the provider has active clinical privileges in good
49 standing;

1 (g) Disclosure of whether the provider participates in medicaid and
2 medicare programs (but not necessarily accepting new patients), or has
3 ever been barred from participation in either program;

4 (h) Disclosure of any translating services that may be available at the
5 provider's practice location(s) (optional);

6 (i) Description of any criminal convictions for felonies or other
7 crimes of moral turpitude within the most recent ten (10) years. For
8 purposes of this subsection, a person shall be deemed convicted of a
9 crime if he pled guilty or if he was found or adjudged guilty by a court
10 of competent jurisdiction;

11 (j) Description of any final board disciplinary actions within the most
12 recent ten (10) years that are considered to be public in accordance
13 with the provisions of ~~chapter 3, title 9~~ chapter 1, title 74, Idaho
14 Code;

15 (k) Description of any final disciplinary actions by a board from any
16 other state including, but not limited to, revocation or suspension of
17 license, within the most recent ten (10) years;

18 (l) Description of revocation or involuntary restriction of hospital
19 privileges, or a reduction in credentialing for more than one hundred
20 eighty (180) days, from any state, for reasons related to competence or
21 character, that have been taken by a hospital's governing body or any
22 other official of a hospital after procedural due process has been af-
23 farded; or the resignation from or nonrenewal of a medical staff member-
24 ship, or the restriction of privileges at a hospital taken in lieu of or
25 in settlement of a pending disciplinary case related to competence or
26 character in that hospital, within the most recent ten (10) years;

27 (m) Whether the provider carries professional malpractice insurance,
28 and if not, has ever been denied malpractice insurance;

29 (n) Disclosure of all malpractice court judgments and all malpractice
30 arbitration awards in which a payment was awarded to a complaining party
31 during the most recent ten (10) years. Pending malpractice claims shall
32 not be disclosed by the board to patients; however, nothing herein shall
33 be construed to prevent the board from investigating and disciplining a
34 provider on the basis of pending malpractice claims.

35 (o) Disclosure of settlements of professional malpractice claims
36 within the most recent five (5) years of continuous practice;

37 (i) Providers need only disclose malpractice settlements if
38 there have been five (5) or more settlements in the most recent
39 five (5) years of continuous practice, of fifty thousand dollars
40 (\$50,000), or more, per settlement, or if there have been more than
41 ten (10) settlements within the most recent five (5) years of con-
42 tinuous practice of any dollar amount;

43 (ii) Settlements that result solely in an adjustment to the fee
44 charged for a provider's services shall not be disclosed pursuant
45 to this chapter;

46 (iii) Information concerning all settlements shall be accompanied
47 by the following statement: "Settlement of a claim may occur for
48 a variety of reasons which do not necessarily reflect negatively
49 on the professional competence or conduct of a provider. A pay-
50 ment in settlement of a malpractice action or claim should not be

1 construed as creating presumption that malpractice has occurred.
2 Malpractice histories tend to vary by speciality. Some speciali-
3 ties are more likely than others to be the subject of litigation.";
4 (iv) Nothing herein shall be construed to limit or prevent the
5 board from providing further explanatory information regarding
6 settlements;

7 (p) Percentage of ownership interest provider has in other health fa-
8 cilities, laboratories, equipment or therapy, except for ownership
9 interest in the primary practice business, to which the provider's pa-
10 tients are, have been, or may be referred.

11 (2) Each profile submitted by a provider must include a statement,
12 signed under oath, by the provider attesting to the correctness and com-
13 pleteness of the information contained in the profile.

14 (3) The board shall not be held liable for the correctness or com-
15 pleteness of the information contained in the provider profiles, and shall
16 include a disclaimer statement on all released profiles, attesting to the
17 self-reporting nature of the program, and that the information has not been
18 verified by the board.

19 (4) The board shall, at the time of issuing a new license or regis-
20 tration, or in conjunction with license or registration renewal, collect
21 and maintain the information required in this chapter, as submitted by the
22 provider, for the purpose of creating individual profiles on providers that
23 shall be made available to the public as provided in this chapter.

24 (5) No state law that would otherwise prohibit, limit, or penalize dis-
25 closure of information about a provider shall apply to disclosure of infor-
26 mation required by this chapter.

27 (6) If a provider fails to comply with the provisions of this chapter
28 with full and truthful disclosure of information to the board within the time
29 specified by the board, the board may:

30 (a) Fine the provider up to fifty dollars (\$50.00) for each day that the
31 provider is not in compliance with the provisions of this chapter;

32 (b) Take any other disciplinary action it deems appropriate, except
33 the board may not revoke, suspend, refuse to issue or refuse to renew a
34 provider's license or registration solely because the provider failed
35 to comply with the provisions of this chapter.

36 SECTION 152. That Section 56-209j, Idaho Code, be, and the same is
37 hereby amended to read as follows:

38 56-209j. SUBSTANCE ABUSE SCREENING AND TESTING PROGRAMS. (1) The de-
39 partment of health and welfare shall develop for implementation in fiscal
40 year 2001, a program to screen each applicant who is otherwise eligible
41 for temporary cash assistance provided under this chapter, and to subject
42 to testing any applicant or participant who the department has reasonable
43 suspicion to believe, based on the screening or other factors, is at risk of
44 substance abuse.

45 (2) Prior to the first regular session of the fifty-sixth Idaho leg-
46 islature, the department shall promulgate the necessary rules, pursuant to
47 chapter 52, title 67, Idaho Code, to govern substance abuse screening and
48 testing for TAFI programs. Rules shall, at a minimum:

1 (a) Specifically address the confidentiality of the screening and test
2 results, and provide that individual results are protected under sec-
3 tion ~~9-340C~~ 74-106 (6), Idaho Code, and are not subject to disclosure ex-
4 cept to an evaluating or treating substance abuse program, and cannot be
5 released for use in any criminal investigation or proceeding;

6 (b) Provide notice of screening and testing requirements to each appli-
7 cant at the time of application. The notice must, at a minimum, advise
8 the applicant that substance abuse screening and possible testing will
9 be conducted as a condition for receiving temporary assistance or ser-
10 vices under this chapter. The applicant shall be advised that the re-
11 quired screening and possible testing may be avoided if the applicant
12 does not apply for or receive assistance or services. The screening and
13 testing program is not applicable in child only cases;

14 (c) Develop procedures for substance abuse screening and testing of ap-
15 plicants for and recipients of temporary assistance or services under
16 the TAFI program;

17 (d) Provide a procedure to advise each person to be tested, before the
18 test is conducted, that he or she may, but is not required to, advise the
19 agent administering the test of any prescription or over-the-counter
20 medication he or she is taking;

21 (e) Require each person to be tested to sign a written acknowledgment
22 that he or she has received and understood the notice and advice pro-
23 vided under paragraphs (a) and (d) of this subsection;

24 (f) Provide a procedure to assure each person being tested a reasonable
25 degree of dignity while producing and submitting a sample for drug test-
26 ing, consistent with the state's need to ensure the reliability of the
27 sample;

28 (g) Specify circumstances under which a person who tests positive has
29 the right to take one (1) or more additional tests;

30 (h) Provide a procedure for appealing the results of a test by a person
31 who tests positive, and denial of TAFI services or benefits;

32 (i) Provide a definition for reasonable suspicion and high risk;

33 (j) Delineate the substances which will be screened;

34 (k) Establish outcome measures which can substantiate program effec-
35 tiveness.

36 SECTION 153. That Section 56-221, Idaho Code, be, and the same is hereby
37 amended to read as follows:

38 56-221. CONFIDENTIAL CHARACTER OF PUBLIC ASSISTANCE RECORDS. The
39 rule-making power of the state department shall include the power to estab-
40 lish and enforce reasonable rules and regulations governing the custody,
41 use and preservation of the records, papers, files and communications of the
42 state department. Wherever, under provisions of law, names and addresses
43 of recipients of public assistance are furnished to or held by any state
44 or county official, the names and addresses shall be subject to disclosure
45 according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code; but any
46 exemption from disclosure shall not prevent the furnishing to a state or
47 local law enforcement officer, upon his written request, with the current
48 address of any AFDC recipient if the officer furnishes the state department
49 with such recipient's name and social security account number and proof that

1 such recipient is a convicted fugitive felon or an indicted fugitive felon,
2 or a person for whom a fugitive warrant has been issued, and that the location
3 or apprehension of such felon or person is within the officer's official
4 duties, and that the request is made in the proper exercise of those duties.

5 SECTION 154. That Section 56-231, Idaho Code, be, and the same is hereby
6 amended to read as follows:

7 56-231. PUBLIC ASSISTANCE IN LOCATING AND DETERMINING THE FINANCIAL
8 RESOURCES OF PARENTS AND OTHER PERSONS LIABLE FOR SUPPORT OF DEPENDENTS. To
9 assist in locating and determining the financial resources of parents who
10 have deserted their children and other persons liable for support of depen-
11 dents, the department of health and welfare and county prosecuting attorneys
12 may request and shall receive information from the records of all depart-
13 ments, boards, bureaus or other agencies of this state, and may request and
14 may receive information from businesses and financial entities; and the same
15 are authorized to provide such information as is necessary for this purpose,
16 notwithstanding any provisions of ~~chapter 3, title 9~~ chapter 1, title 74,
17 Idaho Code, making the information exempt from disclosure. There shall be no
18 legal sanctions imposed against a business or financial entity which refuses
19 to provide requested information, unless the business or financial entity
20 has been served with a subpoena requesting the information. Only informa-
21 tion directly bearing on the identity, financial resources, and whereabouts
22 of a person owing or asserted to be owing an obligation of support shall be
23 requested and used or transmitted by the department of health and welfare
24 and county prosecuting attorneys pursuant to the authority conferred by this
25 act. The department of health and welfare and county prosecuting attorneys
26 may make such information available only to public officials and agencies
27 of this state, other states and the political subdivisions of this state and
28 other states seeking to locate parents who have deserted their children and
29 other persons liable for support of dependents for the purpose of enforcing
30 their liability for support.

31 SECTION 155. That Section 57-133B, Idaho Code, be, and the same is
32 hereby amended to read as follows:

33 57-133B. UNLAWFUL DISCLOSURE OF INFORMATION RELATING TO DESIGNATED
34 DEPOSITORIES -- PENALTY. Any information obtained from any designated de-
35 pository by the treasurer of a depositing unit shall be subject to disclosure
36 according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, provided
37 that federal or state examiners shall have a lawful right to examine said
38 designated depository or to proper officials legally empowered to investi-
39 gate criminal charges relating to said designated depository shall have a
40 right to examine said depository. Any public official who violates any pro-
41 vision of this section by improperly disclosing information shall forfeit
42 his office or employment and shall also be guilty of a felony. Any person
43 who is not lawfully entitled to such information and who attempts to obtain
44 such information illegally or who misuses such information as he may have
45 obtained shall be guilty of a felony.

1 SECTION 156. That Section 57-911, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 57-911. PUBLIC RECORDS -- LOCATIONS. (1) Records, with regard to the
4 ownership of or security interests in registered public obligations shall be
5 subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74,
6 Idaho Code.

7 (2) Registration records of the issuer may be maintained at such loca-
8 tions within or without this state as the issuer shall determine.

9 SECTION 157. That Section 58-126, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 58-126. INFORMATION REGARDING STATE LANDS. Information concerning
12 the selection or appraisalment of any state lands, or the timber thereon, or
13 any information in regard to such land shall be subject to disclosure accord-
14 ing to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

15 SECTION 158. That Section 59-1316, Idaho Code, be, and the same is
16 hereby amended to read as follows:

17 59-1316. MEMBER'S RETIREMENT RECORDS CONFIDENTIAL. (1) Each member
18 shall furnish the board with such information as the board shall deem neces-
19 sary for the proper operation of the system. As provided in section ~~9-340C~~
20 74-106, Idaho Code, information contained in the retirement system mortgage
21 portfolio loan documents and in each member's retirement system records is
22 confidential and may not be divulged except as ordered by a court; or except
23 as may be required by the employer member or by the retirement board and its
24 staff in order to carry into effect the purposes of this chapter.

25 (2) A member may by his written authorization release specific infor-
26 mation from his own retirement system records to a stated designee. If the
27 member is deceased, the member's contingent annuitant or beneficiary may, by
28 written authorization, release specific information from the member's re-
29 tirement system records to a stated designee.

30 (3) The retirement system may disclose the identity of a deceased
31 member's beneficiary to the member's spouse, children, and to the court-ap-
32 pointed administrator of the member's estate.

33 (4) Should a court order direct distribution or partial distribution of
34 a member's benefit as defined in either chapter 13, title 59, Idaho Code, or
35 chapter 14, title 72, Idaho Code, to the member's spouse or former spouse,
36 the system may release to the spouse, former spouse, or the court issuing the
37 order, information pertaining to the division or segregation of the member's
38 accounts or benefit. This information includes account balances, service
39 accumulations, and related information and histories, but does not include
40 current addresses and phone numbers. The system may release the same in-
41 formation to a member's current spouse at any time, regardless of whether a
42 court has ordered a distribution or division of the member's account.

43 SECTION 159. That Section 63-602G, Idaho Code, be, and the same is
44 hereby amended to read as follows:

1 63-602G. PROPERTY EXEMPT FROM TAXATION -- HOMESTEAD. (1) During the
2 tax year 2006 and each year thereafter, subject to annual adjustment as pro-
3 vided herein, the first seventy-five thousand dollars (\$75,000) of the mar-
4 ket value for assessment purposes of the homestead as that term is defined
5 in section 63-701, Idaho Code, or fifty percent (50%) of the market value
6 for assessment purposes of the homestead as that term is defined in section
7 63-701, Idaho Code, whichever is the lesser, shall be exempt from property
8 taxation. Beginning for tax year 2007, the state tax commission shall pub-
9 lish adjustments to the maximum amount subject to property tax exemption to
10 reflect cost-of-living fluctuations. The adjustments shall effect changes
11 in the amount subject to tax exemption by a percentage equal as near as prac-
12 ticable to the annual change in the Idaho housing price index as determined
13 by the United States office of federal housing enterprise oversight. The
14 state tax commission shall publish the adjustments required by this subsec-
15 tion each and every year the office of federal housing enterprise oversight
16 announces a change in the Idaho housing price index. The adjustments shall
17 be published no later than October 1 of each year and shall be effective for
18 claims filed in and for the following property tax year. The publication
19 of adjustments under this subsection shall be exempt from the provisions of
20 chapter 52, title 67, Idaho Code, but shall be provided to each county and to
21 members of the public upon request and without charge.

22 (2) The exemption allowed by this section may be granted only if:

23 (a) The homestead is owner-occupied and used as the primary dwelling
24 place of the owner as of January 1, provided that in the event the home-
25 stead is owner-occupied after January 1 but before April 15, the owner
26 of the property is entitled to the exemption. The homestead may consist
27 of part of a multidwelling or multipurpose building and shall include
28 all of such dwelling or building except any portion used exclusively for
29 anything other than the primary dwelling of the owner. The presence of
30 an office in a homestead, which office is used for multiple purposes,
31 including business and personal use, shall not prevent the owner from
32 claiming the exemption provided in this section; and

33 (b) The state tax commission has certified to the board of county com-
34 missioners that all properties in the county which are subject to ap-
35 praisal by the county assessor have, in fact, been appraised uniformly
36 so as to secure a just valuation for all property within the county; and

37 (c) The owner has certified to the county assessor by April 15 that:

38 (i) He is making application for the exemption allowed by this
39 section;

40 (ii) The homestead is his primary dwelling place; and

41 (iii) He has not made application in any other county for the ex-
42 emption, and has not made application for the exemption on any
43 other homestead in the county.

44 (d) For the purpose of this section, the definition of "owner" shall be
45 the same definition set forth in section 63-701(7), Idaho Code.

46 When an "owner," pursuant to the provisions of section 63-701(7),
47 Idaho Code, is any person who is the beneficiary of a revocable or irrev-
48 ocable trust, or who is a partner of a limited partnership, a member of
49 a limited liability company, or shareholder of a corporation, he or she
50 may provide proof of the trust, limited partnership, limited liability

1 company, or corporation in the manner set forth in section 63-703(4),
2 Idaho Code.

3 (e) Any owner may request in writing the return of all copies of any
4 documents submitted with the affidavit set forth in section 63-703(4),
5 Idaho Code, that are held by a county assessor, and the copies shall
6 be returned by the county assessor upon submission of the affidavit in
7 proper form.

8 (f) For the purpose of this section, the definition of "primary
9 dwelling place" shall be the same definition set forth in section
10 63-701(8), Idaho Code.

11 (g) For the purpose of this section, the definition of "occupied" shall
12 be the same definition set forth in section 63-701(6), Idaho Code.

13 (3) An owner need only make application for the exemption described in
14 subsection (1) of this section once, as long as all of the following condi-
15 tions are met:

16 (a) The owner has received the exemption during the previous year as a
17 result of his making a valid application as defined in subsection (2) (c)
18 of this section.

19 (b) The owner or beneficiary, partner, member or shareholder, as appro-
20 priate, still occupies the same homestead for which the owner made ap-
21 plication.

22 (c) The homestead described in subsection (3) (b) of this section is
23 owner-occupied or occupied by a beneficiary, partner, member or share-
24 holder, as appropriate, and used as the primary dwelling place of the
25 owner or beneficiary, partner, member or shareholder, as appropriate,
26 as of January 1; provided however, that in the event the homestead is
27 owner-occupied after January 1, but before April 15, the owner of the
28 property is entitled to the exemption.

29 (4) The exemption allowed by this section must be taken before the re-
30 duction in taxes provided by sections 63-701 through 63-710, Idaho Code, is
31 applied.

32 (5) Recovery of property tax exemptions allowed by this section but im-
33 properly claimed or approved:

34 (a) Upon discovery of evidence, facts or circumstances indicating any
35 exemption allowed by this section was improperly claimed or approved,
36 the county assessor shall decide whether the exemption claimed should
37 have been allowed, and if not, notify the taxpayer in writing, assess
38 a recovery of property tax and notify the county treasurer of this as-
39 sessment. If the county assessor determined that an exemption was im-
40 properly approved as a result of county error, the county assessor shall
41 present the discovered evidence, facts or circumstances from the im-
42 properly approved exemption to the board of county commissioners, at
43 which time the board may waive a recovery of the property tax and notify
44 such taxpayer in writing.

45 (b) When information indicating that an improper claim for the exemp-
46 tion allowed by this section is discovered by the state tax commission,
47 the state tax commission may disclose this information to the ap-
48 propriate county assessor, board of county commissioners and county
49 treasurer. Information disclosed to county officials by the state tax
50 commission under this subsection may be used to decide the validity of

1 any entitlement to the exemption provided in this section and is not
2 otherwise subject to public disclosure pursuant to ~~chapter 3, title 9~~
3 chapter 1, title 74, Idaho Code.

4 (c) The assessment and collection of the recovery of property tax must
5 begin within the seven (7) year period beginning the date the assessment
6 notice reflecting the improperly claimed or approved exemption was re-
7 quired to be mailed to the taxpayer.

8 (d) The taxpayer may appeal to the county board of equalization the
9 decision by the county assessor to assess the recovery of property tax
10 within thirty (30) days of the date the county assessor sent the notice
11 to the taxpayer pursuant to this section. The board may waive the col-
12 lection of all or part of any costs, late charges and interest, in order
13 to facilitate the collection of the recovery of the property tax.

14 (e) For purposes of calculating the tax, the amount of the recovered
15 property tax shall be for each year the exemption allowed by this sec-
16 tion was improperly claimed or approved, up to a maximum of seven (7)
17 years. The amount of the recovery of property tax shall be calculated
18 using the product of the amount of exempted value for each year multi-
19 plied by the levy for that year plus costs, late charges and interest for
20 each year at the rates equal to those provided for delinquent property
21 taxes during that year.

22 (f) Any recovery of property tax shall be due and payable no later than
23 the date provided for property taxes in section 63-903, Idaho Code, and
24 if not timely paid, late charges and interest, beginning the first day
25 of January in the year following the year the county assessor sent the
26 notice to the taxpayer pursuant to this section, shall be calculated at
27 the current rate provided for property taxes.

28 (g) Recovered property taxes shall be billed, collected and dis-
29 tributed in the same manner as property taxes, except each taxing dis-
30 trict or unit shall be notified of the amount of any recovered property
31 taxes included in any distribution.

32 (h) Thirty (30) days after the taxpayer is notified, as provided in
33 subsection (5) (a) of this section, the assessor shall record a notice
34 of intent to attach a lien. Upon the payment in full of such recovered
35 property taxes prior to the attachment of the lien as provided in sub-
36 section (5) (i) of this section, or upon the successful appeal by the
37 taxpayer, the county assessor shall record a rescission of the intent to
38 attach a lien within seven (7) business days of receiving such payment
39 or within seven (7) business days of the county board of equalization
40 decision granting the appeal. If the real property is sold to a bona
41 fide purchaser for value, prior to the recording of the notice of the
42 intent to attach a lien, the county assessor and treasurer shall cease
43 the recovery of such unpaid recovered property tax.

44 (i) Any unpaid recovered property taxes shall become a lien upon the
45 real property in the same manner as provided for property taxes in sec-
46 tion 63-206, Idaho Code, except such lien shall attach as of the first
47 day of January in the year following the year the county assessor sent
48 the notice to the taxpayer pursuant to this section.

1 (j) For purposes of the limitation provided by section 63-802, Idaho
 2 Code, moneys received pursuant to this subsection as recovery of prop-
 3 erty tax shall be treated as property tax revenue.

4 (6) The legislature declares that this exemption is necessary and just.

5 (7) A homestead, having previously qualified for exemption under this
 6 section in the preceding year, shall not lose such qualification due to: the
 7 owner's, beneficiary's, partner's, member's or shareholder's absence in the
 8 current year by reason of active military service, or because the homestead
 9 has been leased because the owner, beneficiary, partner, member or share-
 10 holder is absent in the current year by reason of active military service.
 11 An owner subject to the provisions of this subsection must apply for the ex-
 12 emption with the county assessor every year on or before a deadline date as
 13 specified by the county assessor for the county in which the homestead is
 14 claimed. If an owner fails to apply on or before the established deadline,
 15 the county may, at its discretion, discontinue the exemption for that year.

16 (8) A homestead, having previously qualified for exemption under this
 17 section in the preceding year, shall not lose such qualification due to
 18 the owner's, beneficiary's, partner's, member's or shareholder's death
 19 during the year of the owner's, beneficiary's, partner's, member's or share-
 20 holder's death and the tax year immediately following such death provided
 21 that the homestead continues to be a part of the owner's, beneficiary's,
 22 partner's, member's or shareholder's estate. After such time the new owner
 23 shall reapply to receive the exemption pursuant to this section and shall
 24 meet the qualification criteria contained in this section.

25 SECTION 160. That Section 63-3029B, Idaho Code, be, and the same is
 26 hereby amended to read as follows:

27 63-3029B. INCOME TAX CREDIT FOR CAPITAL INVESTMENT. (1) At the elec-
 28 tion of the taxpayer there shall be allowed, subject to the applicable limi-
 29 tations provided herein as a credit against the income tax imposed by chapter
 30 30, title 63, Idaho Code, an amount equal to the sum of:

31 (a) The tax credit carryovers; and

32 (b) The tax credit for the taxable year.

33 (2) The maximum allowable amount of the credit for the current taxable
 34 year shall be three percent (3%) of the amount of qualified investments made
 35 during the taxable year.

36 (3) As used in this section "qualified investment" means certain prop-
 37 erty which:

38 (a) (i) Is eligible for the federal investment tax credit, as defined
 39 in sections 46(c) and 48 of the Internal Revenue Code subject to
 40 the limitations provided for certain regulated companies in sec-
 41 tion 46(f) of the Internal Revenue Code and is not a motor vehicle
 42 under eight thousand (8,000) pounds gross weight; or

43 (ii) Is qualified broadband equipment as defined in section
 44 63-3029I, Idaho Code; and

45 (b) Is acquired, constructed, reconstructed, erected or placed into
 46 service after December 31, 1981; and

47 (c) Has a situs in Idaho as determined under subsection (9) of this sec-
 48 tion.

1 (4) (a) For qualified investments placed in service in 2003 and there-
2 after, a taxpayer, other than a person whose rate of charge or rate of
3 return, or both, is regulated or limited according to federal or state
4 law, may elect, in lieu of the credit provided by this section, a two (2)
5 year exemption from all taxes on personal property on the qualified in-
6 vestment. The exemption from personal property tax shall apply to the
7 year the election is filed as provided in this section and the immedi-
8 ately following year. The election provided by this paragraph is avail-
9 able only to a taxpayer whose Idaho taxable income, before application
10 of net operating losses carried back or forward, in the second preceding
11 taxable year in which the investment is placed in service is negative.

12 (b) The election shall be made in the form prescribed by the state tax
13 commission and shall include a specific description and location of
14 all qualified investments placed into service and located in the ju-
15 risdiction of the assessing authority, a designation of the specific
16 assets for which the exemption is claimed, and such other information
17 as the state tax commission may require. The election must be made
18 by including the election form with the listing of personal property
19 required by section 63-302, Idaho Code, or, in the case of operating
20 property assessed under chapter 4, title 63, Idaho Code, with the op-
21 erator's statement required by section 63-404, Idaho Code. Once made
22 the election is irrevocable. If no election is made, the election is not
23 otherwise available. A copy of the election form must also be attached
24 to the original income tax return due for the taxable year in which the
25 claim was made.

26 (c) The state tax commission and the various county assessors are au-
27 thorized to exchange information as necessary to properly coordinate
28 the exemption provided in this subsection. Information disclosed to
29 county officials under this subsection may be used only to determine the
30 validity or amount of a taxpayer's entitlement to the exemption pro-
31 vided in this section, and is not otherwise subject to public disclosure
32 as provided in section ~~9-340D~~ 74-107, Idaho Code.

33 (d) In the event that an investment in regard to which the election un-
34 der this subsection was made is determined by the state tax commission:

- 35 (i) To not be a qualified investment, or
36 (ii) To have ceased to qualify during the recapture period, or
37 (iii) To be otherwise not qualified for the election,

38 the taxpayer shall be subject to recapture of the property tax benefit.

39 (e) The benefit to be recaptured in subsection (4) (d) of this section
40 shall be computed in the manner required in subsection (7) of this sec-
41 tion and such recapture amount shall be subject to assessment in the
42 same manner as a deficiency in tax under this chapter. For purposes of
43 calculating the recapture, the property tax benefit shall be:

44 (i) In the case of locally assessed property located in a single
45 county or nonapportioned centrally assessed property, the market
46 value of exempted property times the average property tax levy
47 for that county in the year or years for which the exemption was
48 claimed.

49 (ii) In the case of other centrally assessed property and property
50 located in more than one (1) county, the market value of exempted

1 property times the average urban property tax levy of the state
2 as determined by the state tax commission in each of the years for
3 which the exemption was claimed.

4 (f) In the event that a recapture of the exemption is required under
5 this subsection (4), the person claiming the exemption shall report the
6 event to the state tax commission in the manner the state tax commission
7 may by rule require. The report shall be due no later than the due date
8 of that person's income tax return under this chapter for the taxable
9 year in which the event occurs. The recapture amount is due and payable
10 with the report. Any amount of recapture not paid is a deficiency within
11 the meaning of section 63-3044, Idaho Code.

12 (g) All moneys collected by the state tax commission pursuant to this
13 subsection, which amounts are continuously appropriated for this pur-
14 pose, shall be deposited with the state treasurer and placed in the
15 state refund account, as provided by section 63-3067, Idaho Code, to be
16 remitted to the county within which the property was located that was
17 not a qualified investment or ceased to qualify during the recapture
18 period. The county shall distribute this remittance to all appropriate
19 taxing districts based on the proportion each appropriate taxing dis-
20 trict's levy is to the total of all the levies of the taxing districts
21 for the tax code area where the property was located for each year the
22 exemption was granted. If any taxing district is dissolved or disincor-
23 porated, the proportionate share of the remittance to be distributed to
24 that taxing district shall be deposited in the county current expense
25 fund.

26 (h) For purposes of the limitation provided by section 63-802, Idaho
27 Code, moneys received pursuant to this subsection shall be treated as
28 property tax revenue by taxing districts.

29 (5) Notwithstanding the provisions of subsections (1) and (2) of this
30 section, the amount of the credit allowed shall not exceed fifty percent
31 (50%) of the tax liability of the taxpayer. The tax liability of the taxpayer
32 shall be the tax after deducting the credit allowed by section 63-3029, Idaho
33 Code.

34 (6) If the sum of credit carryovers from the credit allowed by subsec-
35 tion (2) of this section and the amount of credit for the taxable year from
36 the credit allowed by subsection (2) of this section exceed the limitation
37 imposed by subsection (5) of this section for the current taxable year, the
38 excess attributable to the current taxable year's credit shall be an invest-
39 ment credit carryover to the fourteen (14) succeeding taxable years so long
40 as the qualified investment property for which the unused credit was granted
41 otherwise remains a qualified investment as determined under subsection (3)
42 of this section in each of the taxable years during the recapture period.
43 In the case of a group of corporations filing a combined report under sec-
44 tion 63-3027, Idaho Code, or sections 63-3027B through 63-3027E, Idaho Code,
45 credit earned by one (1) member of the group but not used by that member may
46 be used by another member of the group, subject to the provisions of subsec-
47 tion (5) of this section, instead of carried over. The entire amount of un-
48 used credit shall be carried forward to the earliest of the succeeding years,
49 wherein the oldest available unused credit shall be used first. For a com-
50 bined group of corporations, credit carried forward may be claimed by any

1 member of the group unless the member who earned the credit is no longer in-
2 cluded in the combined group.

3 (7) Any recapture of the credit allowed by subsection (2) of this sec-
4 tion on property disposed of or ceasing to qualify, prior to the close of
5 the recapture period, shall be determined according to the applicable recap-
6 ture provisions of the Internal Revenue Code. In the case of a unitary group
7 of corporations, the increase in tax due to the recapture of investment tax
8 credit must be reported by the member of the group who earned the credit re-
9 gardless of which member claimed the credit against tax.

10 (8) For the purpose of determining whether property placed in service
11 is a "qualified investment" as defined in subsection (3) of this section, the
12 provisions of section 49 of the Internal Revenue Code shall be disregarded.
13 "Qualified investment" shall not include any amount for which a deduction is
14 allowed under section 168(k) or section 179 of the Internal Revenue Code in
15 computing Idaho taxable income.

16 (9) For purposes of this section, property has a situs in Idaho during a
17 taxable year if it is used in Idaho at any time during the taxable year. Prop-
18 erty not used in Idaho during a taxable year does not have a situs in Idaho
19 in the taxable year during which the property is not used in Idaho or in any
20 subsequent taxable year. The Idaho situs of property must be established by
21 records maintained by the taxpayer which are created reasonably contempora-
22 neously with the use of the property.

23 (10) In the case of property used both in and outside Idaho, the tax-
24 payer, electing to claim the credit provided in this section, must elect to
25 compute the qualified investment in property with a situs in Idaho for all
26 such investments first qualifying during that year in one (1), but only one
27 (1), of the following ways:

28 (a) The amount of each qualified investment in a specific asset shall
29 be separately computed based on the percentage of the actual use of the
30 property in Idaho by using a measure of the use, such as total miles or
31 total machine hours, that most accurately reflects the beneficial use
32 during the taxable year in which it is first acquired, constructed,
33 reconstructed, erected or placed into service; provided, that the as-
34 set is placed in service more than ninety (90) days before the end of
35 the taxable year. In the case of assets acquired, constructed, recon-
36 structed, erected or placed into service within ninety (90) days prior
37 to the end of the taxable year in which the investment first qualifies,
38 the measure of the use of that asset within Idaho for that year shall be
39 based upon the percentage of use in Idaho during the first ninety (90)
40 days of use of the asset;

41 (b) The investment in qualified property used both inside and out-
42 side Idaho during the taxable year in which it is first acquired,
43 constructed, reconstructed, erected or placed into service shall be
44 multiplied by the percent of the investment that would be included in
45 the numerator of the Idaho property factor determined pursuant to sec-
46 tion 63-3027, Idaho Code, for the same year.

47 (11) References to sections 46, 48 and 49 of the "Internal Revenue Code"
48 mean those sections as they existed in the Internal Revenue Code of 1986
49 prior to November 5, 1990.

1 SECTION 161. That Section 63-3045B, Idaho Code, be, and the same is
2 hereby amended to read as follows:

3 63-3045B. FINAL DECISIONS OF THE COMMISSION. (1) If a taxpayer does
4 not file a protest within the sixty-three (63) day period allowed, the no-
5 tice of deficiency of the tax commission becomes final on the day following
6 the end of the protest period.

7 (2) If a taxpayer files a protest, but does not perfect the protest, re-
8 quest a hearing, or does not submit additional evidence or documentation,
9 or does not request additional time in which to respond, the notice of defi-
10 ciency of the tax commission becomes final on the twenty-ninth day following
11 the date the tax commission notified the taxpayer that the protest was not
12 perfected, except that the tax commission may reduce the amount of the defi-
13 ciency during the twenty-nine (29) day period.

14 (3) When a perfected protest has been filed, the state tax commission
15 shall, within fourteen (14) days thereof, provide the taxpayer with a writ-
16 ten acknowledgement of the protest. After the acknowledgement, a final de-
17 cision of the tax commission must be rendered within one hundred eighty (180)
18 days from either:

19 (a) A request in writing, in a form prescribed by rules of the tax com-
20 mission, from the taxpayer for a final decision on that issue; if the
21 taxpayer requests such a decision, the tax commission may refuse to ac-
22 cept additional evidence or documentation or refuse to allow an appear-
23 ance at any proceeding with the commission or any representative of the
24 commission during such one hundred eighty (180) day period.

25 (b) The conclusion of any hearing pursuant to section 63-3045(2), Idaho
26 Code, and the taxpayer has not requested or received any extension of
27 time to present additional evidence or testimony.

28 (4) A final decision may be held in abeyance, notwithstanding the re-
29 quirements of subsection (3) of this section, with the prior approval in
30 writing of the taxpayer.

31 (5) If a final decision of the tax commission is not rendered or the
32 protest is not resolved by compromise, consent or withdrawal of the notice of
33 deficiency determination within the time limits established by subsection
34 (3) of this section, the notice of deficiency shall be null and void ab ini-
35 tio, with prejudice.

36 (6) A final decision of the tax commission shall be issued in writ-
37 ing and mailed or served upon the taxpayer within the time limits set forth
38 herein. The final written decision of the tax commission shall, one hundred
39 twenty (120) days after the date of the final written decision, be available
40 for public inspection and copying pursuant to the provisions of section
41 ~~9-338~~ 74-102, Idaho Code, except:

42 (a) The taxpayer's name, address, taxpayer identification number, so-
43 cial security number, permit number, or other identifying information
44 shall be removed from the final written decision of the tax commission
45 that is made available to the public; and

46 (b) Any proprietary or other identifying information contained in the
47 written decision that the taxpayer requests be excised shall be excised
48 by the tax commission in the final written decision made available

1 to the public. The taxpayer must make such request in writing before
2 ninety-one (91) days have elapsed after the date of the final decision.

3 (7) The tax commission shall label each written decision with a unique
4 identification number and shall keep a list containing each decision num-
5 ber and the date of issuance, as excised in accordance with the provisions
6 of this section. A decision shall serve as precedent for the tax commis-
7 sion in future protest determinations unless information excised, court de-
8 cisions, changes in the Idaho Code, or changes in applicable administrative
9 rules overrule, supersede, modify, distinguish, or otherwise make inappli-
10 cable the written decision of the tax commission.

11 SECTION 162. That Section 63-3077, Idaho Code, be, and the same is
12 hereby amended to read as follows:

13 63-3077. INFORMATION FURNISHED TO CERTAIN OFFICIALS. (1) The state
14 tax commission, under such rules as it may prescribe, may disclose tax re-
15 turns or tax information to:

16 (a) The commissioner of internal revenue of the United States or his
17 delegate or the financial management services of the department of the
18 treasury of the United States; or

19 (b) The proper officer of any state imposing a tax similar to a tax to
20 which this section applies or the multistate tax commission or its dele-
21 gate or the governing entity of the international fuels tax agreement or
22 its delegate;

23 of any taxpayer making or who may be required to make returns, with the state
24 tax commission or may furnish to such officer or his authorized representa-
25 tive an abstract or copy of any tax return or tax information or any infor-
26 mation disclosed by the report of any audit or investigation relating to any
27 taxpayer; but such permission shall be granted or information furnished to
28 such officer or his representatives only if the statutes of the United States
29 or such other state, as the case may be, grant substantially similar privi-
30 leges to the state tax commission.

31 (2) Notwithstanding the provisions of this chapter as to secrecy, any
32 duly constituted committee of either branch of the state legislature shall
33 have the right to inspect returns upon request.

34 (3) Nothing in this chapter shall prohibit a taxpayer, or his au-
35 thorized representative, upon proper identification, from inspecting or
36 obtaining a copy of his own tax returns or tax information or authorizing, in
37 writing, the disclosure of information to a third party.

38 (4) Any resident or part-year resident individual taxpayer making an
39 income tax return, shall furnish the state tax commission with the location
40 of any residential property owned by the taxpayer and occupied by the tax-
41 payer as his primary dwelling place on the first day of January of the year
42 following the year to which the tax return relates. The state tax commission
43 is hereby authorized and empowered to deliver to the county assessor of any
44 county of the state of Idaho information relating to a taxpayer's place of
45 residence or domicile. The information may be used by county assessors and
46 boards of equalization to assist in determining the validity of any home-
47 owner's entitlement to the exemption provided in section 63-602G, Idaho
48 Code. Information disclosed to county officials under this subsection may
49 be used only to determine the validity of any homeowner's entitlement to

1 the exemption provided in section 63-602G, Idaho Code, and is not otherwise
2 subject to public disclosure.

3 (5) The state tax commission additionally is authorized to utilize any
4 centralized state computer facility.

5 (6) Nothing in this section or section 63-3076, Idaho Code, shall re-
6 quire the state tax commission to disclose information not required to be
7 disclosed under the provisions of ~~sections 9-335 through 9-348~~ chapter 1,
8 title 74, Idaho Code, or prevent the state tax commission from disclosing the
9 current validity of any permit or license issued by the state tax commission
10 or information that is otherwise publicly available.

11 SECTION 163. That Section 65-301, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 65-301. PERFORMANCE WITHOUT FEE -- SERVICES ENUMERATED. (1) Any
14 state, county, city or public officer, or board, or body, acting in his or her
15 or its official capacity on behalf of the state, county, or city, including
16 notaries public, shall not collect, demand or receive any fee or compensa-
17 tion for recording or indexing the discharge papers of any male or female
18 veteran who had active service in any war or conflict officially engaged
19 in by the government of the United States; or for issuing certified copies
20 thereof, or for any service whatever rendered by any such officer or offi-
21 cers, in the matter of a pension claim, application, affidavit, voucher, or
22 in the matter of any claim to be presented to the United States department of
23 veterans affairs or for the purposes of securing any benefits under acts of
24 congress providing pension benefits for honorably discharged veterans of
25 any war, and all acts or parts of acts amendatory thereto, or for furnishing
26 a certified copy of the public record of a marriage, death, birth, divorce,
27 deed of trust, mortgage, or property assessment, or making a reasonable
28 search for the same, wherein the same is to be used in a claim for pension,
29 or a claim for allotment, allowance, compensation, insurance, automatic
30 insurance, or otherwise provided for by any and all legislation by congress
31 providing pension benefits for honorably discharged veterans of any war.

32 (2) Any veteran wishing to record his or her discharge papers may do
33 so with personal identifying information such as date of birth, social se-
34 curity number, home address(es), blood type and other personal identifying
35 information redacted from the document. The name of the veteran may not be
36 redacted from the document.

37 (3) Any veteran or surviving spouse of any veteran of the United States
38 armed forces or his or her surviving spouse, attorney, personal representa-
39 tive, executor or court appointed guardian has the right to request that a
40 county recorder remove from the official records any of the following forms
41 recorded before, on or after July 1, 2003, by or on behalf of the requesting
42 veteran: DD-214; DD-215; WD AGO 53; WD AGO 55; WD AGO 53-55; NAVMC 78-PD; and
43 NAVPERS 553. The request must specify the identification page number of the
44 form to be removed. The request shall be made in person and with appropriate
45 identification to allow determination of identity. The county recorder has
46 no duty to inquire beyond the requestor to verify the identity of the person
47 requesting removal. No fee shall be charged for the removal. Any paper and
48 reasonably retrievable electronic likeness, the removal of which will not
49 affect other recorded documents, shall be removed from the record.

1 (4) No DD-214, DD-215, WD AGO 53, WD AGO 55, WD AGO 53-55, NAVMC 78-PD,
2 and NAVPERS 553, which is recorded at the request of any veteran of the United
3 States armed forces or his or her surviving spouse, attorney, personal rep-
4 resentative, executor or court appointed guardian shall be a public record
5 subject to release by the provisions of ~~sections 9-337 through 9-352~~ chapter
6 1, title 74, Idaho Code, without the express written consent of one (1) of the
7 above enumerated individuals.

8 (5) Nothing in this section shall create or permit any cause of action
9 against a county, county employee or the state of Idaho based upon harm
10 caused by information released from the records of the county.

11 SECTION 164. That Section 66-348, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 66-348. DISCLOSURE OF INFORMATION. All certificates, applications,
14 records, and reports made for the purpose of this act and directly or in-
15 directly identifying a patient or former patient or an individual whose
16 involuntary assessment, detention or commitment is being sought under this
17 act shall be kept subject to disclosure according to ~~chapter 3, title 9~~
18 chapter 1, title 74, Idaho Code; provided that such records may also be dis-
19 closed to any person:

20 (1) If the individual identified, his attorney in fact for mental
21 health care, or his legal guardian, if any, shall consent; or

22 (2) If disclosure may be necessary to carry out any of the provisions of
23 this act; or

24 (3) If a court directs upon its determination that disclosure is neces-
25 sary and that failure to make disclosure would be contrary to the public in-
26 terest.

27 SECTION 165. That Section 67-455A, Idaho Code, be, and the same is
28 hereby amended to read as follows:

29 67-455A. COMMITTEE MAY ACQUIRE AND DISPOSE OF PROPERTY. (1) The gov-
30 ernor's housing committee may accept grants, gifts or donations of any kind
31 from any private or public source related to the acquisition, construction,
32 remodel, furnishing, equipping or maintenance of a governor's residence.

33 (2) The governor's housing committee may acquire real property for
34 purposes related to a governor's residence. Any real property acquired by
35 the governor's housing committee shall be titled in the name of the state
36 of Idaho for the benefit of the governor's housing committee and shall be
37 administered by the department of administration on behalf of and for the
38 benefit of the governor's housing committee. The governor's housing com-
39 mittee may sell such real property by public, private or negotiated sale,
40 exchange, donation or by any other means and may rent a governor's residence
41 and any furnishings and equipment related thereto, as the committee may deem
42 appropriate and prudent. Any real property acquired hereunder shall not be
43 subject to sections 58-331 through 58-335, Idaho Code, relating to surplus
44 real property as the same may now exist or as the same may be amended from time
45 to time. Any sale or disposal of such real property shall not require the
46 reservation to the state of mineral or other rights in the real property.

1 (3) The governor's housing committee may acquire personal property for
2 the purpose of remodeling, furnishing, equipping or maintaining a gover-
3 nor's residence. Any personal property acquired by the governor's housing
4 committee shall be the property of the state of Idaho held for the benefit
5 of the governor's housing committee and shall be administered on behalf of
6 the governor's housing committee by the department of administration. The
7 governor's housing committee may dispose of any personal property acquired
8 hereunder by any means as the committee may deem appropriate and prudent and
9 such disposal shall not be subject to section 67-5732A, Idaho Code, relating
10 to surplus personal property, as the same exists or may be amended from time
11 to time.

12 (4) The governor's housing committee may acquire and contract for ser-
13 vices related to the acquisition, construction, remodel, furnishing, equip-
14 ping or maintenance of a governor's residence. Notwithstanding any other
15 law to the contrary, the acquisition, construction, remodel, furnishing,
16 equipping or maintenance of a governor's residence shall not be considered
17 public works and shall not be subject to any laws related to public works of
18 the state of Idaho. Notwithstanding any other law to the contrary, the gov-
19 ernor's housing committee shall not be subject to the purchasing laws for
20 state agencies provided in chapter 57, title 67, Idaho Code.

21 (5) Notwithstanding the provisions of sections 18-1359(1)(d),
22 18-2705, 58-112, ~~59-201~~ 74-501, ~~59-202~~ 74-503 and 67-5726, Idaho Code, or
23 any other provision of law, an incumbent governor shall not be deemed prohib-
24 ited from purchasing real or personal property acquired hereunder, and any
25 such purchase shall be valid for all purposes. Insofar as the provisions of
26 this section are inconsistent with the provisions of any other law, general,
27 specific or local, the provisions of this section shall be controlling.

28 (6) This section shall apply to all real and personal property acquired
29 pursuant to this section or section 67-455, Idaho Code, before or after the
30 effective date of this section.

31 SECTION 166. That Section 67-461, Idaho Code, be, and the same is hereby
32 amended to read as follows:

33 67-461. CONDUCT OF AND ISSUANCE OF PERFORMANCE EVALUATION RE-
34 PORTS. (1) In conducting a performance evaluation, the director of legisla-
35 tive performance evaluations shall obtain an overview of the operations of
36 the agency or program.

37 (a) The survey phase will develop background information, including
38 roles and identities of key personnel, identify actual and potential
39 financial, managerial and operational problem areas and determine
40 whether and to what extent detailed audit tests may be required in each
41 specific area.

42 (b) In consultation with the agency or program, the director of leg-
43 islative performance evaluations will develop a performance evaluation
44 work plan.

45 (2) Prior to the presentation of any performance evaluation to the com-
46 mittee, the evaluated agency and the governor shall have an opportunity to
47 review the performance evaluation report and issue a response.

1 (a) The response of the agency and the governor to the performance eval-
2 uation report shall be included in the final report when it is presented
3 to the committee.

4 (b) All documents, writings and information transmitted pursuant to
5 this subsection shall be deemed confidential and shall not be released
6 to the public prior to the time the committee issues its performance
7 evaluation report pursuant to subsection (3) of this section.

8 (c) Any person violating the provisions of this subsection regarding
9 confidentiality shall be guilty of a misdemeanor.

10 (3) The committee shall issue performance evaluation reports, favor-
11 able or unfavorable, of any state agency, and such reports shall be a public
12 record except that:

13 (a) Prior to the release of a performance evaluation report or the point
14 at which a performance evaluation is no longer being actively pursued,
15 all papers, physical and electronic records and correspondence and
16 other supporting materials comprising the work papers in the possession
17 of the director of legislative performance evaluations or other entity
18 charged with the preparation of a performance evaluation report shall
19 be confidential and exempt from disclosure pursuant to ~~chapter 3, title~~
20 9 chapter 1, title 74, Idaho Code.

21 (b) All other records or materials in the possession of the director
22 of legislative performance evaluations or other entity charged with the
23 preparation of a performance evaluation report that would otherwise be
24 confidential or exempt from disclosure shall be exempt from disclosure
25 pursuant to the provisions of ~~chapter 3, title 9~~ chapter 1, title 74,
26 Idaho Code.

27 (c) Nothing herein shall be construed to prohibit or prevent public
28 access to state agency records in the possession of the director of
29 legislative performance evaluations that would otherwise be subject to
30 disclosure pursuant to the provisions of ~~chapter 3, title 9~~ chapter 1,
31 title 74, Idaho Code. The director of legislative performance evalua-
32 tions shall refer requests for access to those records directly to the
33 state agency that is the official custodian of the requested records,
34 which shall be responsible for responding to the request for public
35 records.

36 (4) If data supplied by an individual are needed to initiate, continue
37 or complete a performance evaluation, the director of legislative perfor-
38 mance evaluations may by written memorandum to the file provide that the in-
39 dividual's identity will remain confidential and exempt from disclosure un-
40 der ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, and this written memo-
41 randum will protect the identity of the person from disclosure under ~~chapter~~
42 3, title 9 chapter 1, title 74, Idaho Code, notwithstanding any other provi-
43 sion of law to the contrary.

44 (5) A final copy of the report, including recommendations, the evalu-
45 ated agency's response, and the governor's response, shall be submitted to
46 the governor and to the official, officer or person in charge of the state
47 agency examined at least one (1) day prior to its release, and shall be made
48 available to each member of the legislature no later than one (1) day follow-
49 ing the report's receipt by the joint legislative oversight committee.

1 (6) The committee may meet in executive session to consider whether to
2 direct the director of legislative performance evaluations to initiate or
3 continue a performance evaluation or to receive or consider materials exempt
4 from disclosure under subsection (2), (3) or (4) of this section.

5 SECTION 167. That Section 67-1903, Idaho Code, be, and the same is
6 hereby amended to read as follows:

7 67-1903. STRATEGIC PLANNING. (1) Each state agency shall develop and
8 submit to the division of financial management in an electronic format a com-
9 prehensive strategic plan for the major divisions and core functions of that
10 agency. The plan shall be based upon the agency's statutory authority and,
11 at a minimum, shall contain:

12 (a) A comprehensive outcome-based vision or mission statement covering
13 major divisions and core functions of the agency;

14 (b) Goals for the major divisions and core functions of the agency;

15 (c) Objectives and/or tasks that indicate how the goals are to be
16 achieved;

17 (d) Performance measures, developed in accordance with section
18 67-1904, Idaho Code, that assess the progress of the agency in meeting
19 its goals in the strategic plan, along with an indication of how the
20 performance measures are related to the goals in the strategic plan;

21 (e) Benchmarks or performance targets for each performance measure
22 for, at a minimum, the next fiscal year, along with an explanation of the
23 manner in which the benchmark or target level was established; and

24 (f) An identification of those key factors external to the agency and
25 beyond its control that could significantly affect the achievement of
26 the strategic plan goals and objectives.

27 (2) The strategic plan shall cover a period of not less than four (4)
28 years forward including the fiscal year in which it is submitted, and shall
29 be updated annually.

30 (3) The strategic plan shall serve as the foundation for developing the
31 annual performance information required by section 67-1904, Idaho Code.

32 (4) When developing a strategic plan, an agency shall consult with the
33 appropriate members of the legislature, and shall solicit and consider the
34 views and suggestions of those persons and entities potentially affected by
35 the plan. Consultation with legislators may occur when meeting the require-
36 ment of section 67-1904(7), Idaho Code.

37 (5) Strategic plans are public records and are available to the public
38 as provided in section ~~9-338~~ 74-102, Idaho Code.

39 (6) Each agency, department and commission shall seek to minimize the
40 number of printed copies of strategic plans and annual reports by using
41 electronic versions whenever possible, and by printing only a limited number
42 sufficient for internal needs or anticipated requests for copies for which
43 electronic versions are otherwise inadequate.

44 SECTION 168. That Section 67-2726, Idaho Code, be, and the same is
45 hereby amended to read as follows:

46 67-2726. BANKS TO WHICH OFFICIALS SECRETLY INDEBTED INELIGIBLE. No
47 bank is eligible to become or remain a state depository, to which the state

1 treasurer, state controller, or the chief deputy of either of them is di-
 2 rectly indebted, unless the fact of such indebtedness is made known to the
 3 department of finance, but the amount and character of such indebtedness
 4 shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1,
 5 title 74, Idaho Code, and said department of finance shall treat such infor-
 6 mation in strict confidence. Any member of the department violating this
 7 provision shall be guilty of a misdemeanor, and punished therefor as pro-
 8 vided by law.

9 In case of a violation by a state depository of this provision, the de-
 10 partment of finance shall immediately cause all funds therein to be with-
 11 drawn and such bank shall be ineligible again to become a state depository
 12 during the incumbency of the official so indebted to said bank.

13 SECTION 169. That Section 67-2743E, Idaho Code, be, and the same is
 14 hereby amended to read as follows:

15 67-2743E. DISCLOSURE OR USE OF INFORMATION RELATING TO DEPOSITORIES
 16 -- PENALTY. Information regarding the solvency of the bank obtained by the
 17 board, the department of finance, or office of state treasurer, shall be sub-
 18 ject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho
 19 Code, except that such disclosure is subject to the privilege set out in sub-
 20 section (3) of section 26-1111, Idaho Code, and provided further, that the
 21 board, the department of finance and the office of state treasurer may dis-
 22 close such information to federal or state bank examiners having a lawful
 23 right to examine said bank or to proper officials legally empowered to in-
 24 vestigate criminal charges relating to said bank or to any of its directors
 25 or employees, provided that the provisions of this section shall not apply
 26 to information included as part of the daily, monthly, biennial or other of-
 27 ficial reports of the state treasurer's office. Any public official who vi-
 28 olates any provision of this section shall forfeit his office or employment
 29 and shall also be guilty of a felony. Any person who is not lawfully entitled
 30 to such information and who attempts to obtain such information illegally
 31 or who misuses such information as he may have obtained shall be guilty of a
 32 felony.

33 SECTION 170. That Section 67-2915, Idaho Code, be, and the same is
 34 hereby amended to read as follows:

35 67-2915. STATISTICAL REPORT OF MALICIOUS HARASSMENT CRIMES. The di-
 36 rector of the Idaho state police shall annually submit to the governor and
 37 the chairman of the judiciary and rules committee in the senate and the
 38 chairman of the judiciary, rules and administration committee in the house
 39 of representatives a report on malicious harassment crimes, as that crime is
 40 defined in section 18-7902, Idaho Code. Report content shall be limited to
 41 statistical data and shall be presented in conformance with the provisions
 42 of section ~~9-335~~ 74-124, Idaho Code.

43 All city, county and state law enforcement units shall be required to
 44 report to the director all incidences of, complaints on, and arrests for ma-
 45 licious harassment crimes within their respective jurisdictions. The di-
 46 rector shall develop a standard procedure and shall prescribe and provide a
 47 standard form for complete and uniform reporting.

1 SECTION 171. That Section 67-3008, Idaho Code, be, and the same is
2 hereby amended to read as follows:

3 67-3008. RELEASE OF CRIMINAL HISTORY RECORD INFORMATION. (1) All
4 units of state, city and local governments, as well as any agency of the state
5 created by the legislature which require by statute, rule, or local or county
6 ordinance, fingerprinting of applicants or licensees, are authorized to
7 submit fingerprints to the bureau for examination and further submission,
8 if necessary, to the federal bureau of investigation. The bureau shall be
9 the state's sole source of fingerprint submissions for criminal justice and
10 applicant or licensing purposes to the federal bureau of investigation.

11 (2) The department shall provide copies of or communicate information
12 from criminal history records to the following:

13 (a) Criminal justice agencies and the court;

14 (b) A person or public or private agency, upon written application on a
15 form approved by the director and provided by the department, subject to
16 the following restrictions:

17 (i) A request for criminal history records must be submitted in
18 writing or as provided by rule. However, the department shall ac-
19 cept a request presented in person by the subject of the record;
20 and

21 (ii) The request must identify a specific person by name and date
22 of birth. Fingerprints of the person named may be required to es-
23 tablish positive identification; and

24 (iii) Responding to the request does not interfere with the secure
25 and orderly conduct of the department and would not substantially
26 prejudice or prevent the carrying out of the functions of the de-
27 partment; and

28 (iv) A record of an arrest that does not contain a disposition af-
29 ter twelve (12) months from the date of arrest may only be dissem-
30 inated by the department to criminal justice agencies, to the sub-
31 ject of the record, or to a person requesting the criminal history
32 information with a signed release from the subject of the record;
33 and

34 (v) Any release of criminal history data by the department shall
35 prominently display the statement: "AN ARREST WITHOUT DISPOSI-
36 TION IS NOT AN INDICATION OF GUILT."

37 (3) Judicial review of the department's denial of a request for records
38 shall be in accordance with the provisions of section ~~9-343~~ 74-115, Idaho
39 Code.

40 (4) A request for a criminal history record by a criminal justice agency
41 or a court shall take precedence over all other requests. The department
42 shall adopt rules to set forth the manner by which criminal justice agencies
43 and courts without direct access to the public safety and security informa-
44 tion system established by section 19-5202, Idaho Code, may request Idaho
45 criminal history record information.

46 (5) Unless otherwise provided by law, access authorized under this
47 section to criminal history records does not create a duty upon a person,
48 employer, private agency, or public agency to examine the criminal history
49 record of an applicant, employee or volunteer.

1 (6) A person or private agency, or public agency, other than the depart-
2 ment, shall not disseminate criminal history record information obtained
3 from the department to a person or agency that is not a criminal justice
4 agency or a court without a signed release of the subject of record or unless
5 otherwise provided by law.

6 (7) Direct access to criminal history record information is regulated
7 by chapter 52, title 19, Idaho Code, and the rules adopted pursuant to that
8 chapter.

9 SECTION 172. That Section 67-4126, Idaho Code, be, and the same is
10 hereby amended to read as follows:

11 67-4126. POWERS AND DUTIES OF BOARD. The board of trustees of the soci-
12 ety shall have powers and duties as follows:

13 1. To appoint a director of the society as provided herein and advise
14 him in the performance of his duties and formulate general policies affect-
15 ing the society.

16 2. To encourage and promote interest in the history of Idaho and encour-
17 age membership in the society.

18 3. To collect for preservation and display artifacts and information
19 illustrative of Idaho history, culture and society.

20 4. To print such publications and reports as may be deemed necessary.

21 5. To encourage creation of county historical societies and museums in
22 the counties of Idaho.

23 6. To facilitate the use of Idaho records for official reference and
24 historical research.

25 7. To be responsible for records management services for state govern-
26 ment. Records management services include the management, storage and re-
27 trieval of all state created records under retention. State created records
28 shall mean any document, book, paper photograph, sound recording or other
29 material, regardless of physical form or characteristic, made or received
30 pursuant to law or in connection with the transaction of official state busi-
31 ness. The board may charge reasonable amounts for records management ser-
32 vices. The records managed pursuant to this subsection will not be subject
33 to the exemption in public records law provided in section ~~9-337~~ 74-101(15),
34 Idaho Code.

35 8. To accept from any state, county, or city, or any public official,
36 any official books, records, documents, original papers, newspaper files,
37 printed books, or portraits, not in current use. When such documents are
38 so accepted, copies therefrom shall be made and certified under the seal of
39 the society upon application of any person, which person shall pay for such
40 copies reasonable fees established by the society.

41 9. To require that any state, county, or city, or any public official,
42 deposit official books, records, documents, or original papers, not in cur-
43 rent use, which are of definite historical importance, in the society for
44 preservation and to provide methods whereby such materials, which have no
45 significance, may be destroyed.

46 10. To establish such rules as may be necessary to discharge the duties
47 of the society.

48 11. To employ such personnel as may be necessary for the administration
49 of its duties in accordance with the rules of the administrator of the divi-

1 sion of human resources promulgated pursuant to chapter 52, title 67, Idaho
2 Code.

3 12. To have and use an official seal.

4 13. To delegate and provide subdelegation of any such authority.

5 14. To identify historic, architectural, archaeological, and cultural
6 sites, buildings, or districts, and to coordinate activities of local his-
7 toric preservation commissions.

8 15. To serve as the geographic names board of the state of Idaho.

9 SECTION 173. That Section 67-4708, Idaho Code, be, and the same is
10 hereby amended to read as follows:

11 67-4708. BUSINESS RECORDS. Business records and information submit-
12 ted to the department by business clients shall be subject to disclosure ac-
13 cording to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. These records
14 and information shall include financial statements, employment/employee
15 records, loan agreements, the method of financing, the source and terms of
16 financing, business and individual tax returns, insurance policies, bank
17 statements, financial institution letters and documents, sales records,
18 inventory lists, collateral agreements, and other documents or information
19 the business declares to be, and marked "confidential -- proprietary infor-
20 mation."

21 The exemption from disclosure as provided in ~~chapter 3, title 9~~ chapter
22 1, title 74, Idaho Code, shall also be extended to and be consistent with the
23 requirements for confidentiality for business information included in any
24 application for the various federal grant, loan or loan guarantee programs,
25 various federal procurement contracting programs, and other similar federal
26 business assistance programs in which the department is a participant.

27 This exemption from disclosure shall also apply to business information
28 and records associated with industrial revenue bonds, department efforts
29 to assist businesses with international marketing, industrial relocation
30 projects, and other business development projects in which the department
31 extends assistance.

32 SECTION 174. That Section 67-5009, Idaho Code, be, and the same is
33 hereby amended to read as follows:

34 67-5009. OFFICE OF OMBUDSMAN FOR THE ELDERLY. The office of ombuds-
35 man for the elderly is hereby created within the commission. The ombudsman
36 shall be responsible for receiving, investigating and resolving or closing
37 complaints made by or on behalf of residents of long-term care facilities or
38 persons aged sixty (60) years or older living in the community. No represen-
39 tative of the office shall be liable for the good faith performance of offi-
40 cial duties, and willful interference with representatives of the office is
41 unlawful. Long-term care facilities are prohibited from reprisals or retal-
42 iation against a resident or employee filing a complaint with, or furnishing
43 information to, the office.

44 For the purposes of implementing the provisions of this section, the
45 commission is hereby authorized as follows:

46 The administrator shall hire the state ombudsman for the elderly who
47 shall be a person with the necessary educational background commensurate

1 with the duties and responsibilities of the office of ombudsman and shall
2 be a classified employee subject to the provisions of chapter 53, title 67,
3 Idaho Code.

4 The ombudsman may delegate to designated local ombudsmen any duties
5 deemed necessary to carry out the purposes of the provisions of this section.

6 The ombudsman shall establish procedures for receiving and processing
7 complaints, conducting investigations and reporting his findings. He shall
8 have jurisdiction to investigate administrative acts or omissions of long-
9 term care facilities or state or county departments or agencies providing
10 services to older people. An administrative act of a long-term care facility
11 or state or county department or agency may become an appropriate subject for
12 the ombudsman to investigate under certain circumstances. For example, the
13 ombudsman may investigate such an act if it might be contrary to law, unrea-
14 sonable, unfair, oppressive, capricious or discriminatory. The ombudsman
15 may make a finding for an appropriate resolution to the subject matter of the
16 investigation.

17 The ombudsman shall investigate any complaint which he determines to be
18 an appropriate subject for investigation under this section.

19 When the ombudsman investigates a complaint, he shall notify the com-
20 plainant, if any, of the investigation and shall also notify the long-term
21 care facility or the state or county department or agency affected by the
22 investigation of his intent to investigate. However, if no investiga-
23 tion takes place, he shall inform the complainant of the reasons therefor.
24 Records obtained by the ombudsman shall be subject to disclosure according
25 to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

26 In an investigation of any complaint or administrative act of any long-
27 term care facility or state or county department or agency providing ser-
28 vices to older people, the ombudsman may undertake, but not be limited to,
29 any of the following actions:

30 (a) Make the necessary inquiries and obtain such information he deems
31 necessary.

32 (b) Hold private hearings.

33 (c) Enter during regular business hours, a long-term care facility or
34 state or county department or agency's premises.

35 Following the investigation and upon his determination that particular
36 subject matter should be further considered by the long-term care facility
37 or state or county department or agency, an administrative act should be mod-
38 ified or canceled, a statute or regulation on which an administrative act is
39 based should be altered, reasons should be given for an administrative act,
40 or some other action should be taken by a long-term care facility or state
41 or county department or agency, he shall report his opinions and recommenda-
42 tions to the respective parties. The ombudsman may request the parties af-
43 fected by such opinions or recommendations to notify him within the speci-
44 fied time of any action taken by such parties on his recommendation. Follow-
45 ing an investigation, the ombudsman shall consult with the particular par-
46 ties before issuing any opinion or recommendation that is critical to such
47 parties.

48 The ombudsman shall notify the complainant in writing within a reason-
49 able time from the date the investigation is terminated of any actions taken

1 by him and the long-term care facility, or state or county department or
2 agency to resolve any issues raised by the complaint.

3 The ombudsman, on December 1 of each year, shall submit to the gover-
4 nor, the speaker of the house, president of the senate, the department of
5 health and welfare bureau of licensing and certification, the president of
6 the Idaho hospital association and the president of the Idaho health care as-
7 sociation a report of the activities of the ombudsman for the elderly dur-
8 ing the prior fiscal year. This report shall include, but not be limited to,
9 the number and general patterns of complaints received by the ombudsman, the
10 action taken on such complaints, the results of such action, and any opin-
11 ions or recommendations which further the state's capability in providing
12 for statutory resolution of complaints.

13 Nothing in this section shall be construed to be a limitation of the pow-
14 ers and responsibilities assigned by law to other state or county depart-
15 ments or agencies.

16 Records obtained by the ombudsman shall be subject to disclosure ac-
17 cording to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

18 SECTION 175. That Section 67-5220, Idaho Code, be, and the same is
19 hereby amended to read as follows:

20 67-5220. NOTICE OF INTENT TO PROMULGATE RULES -- NEGOTIATED RULEMAK-
21 ING. (1) Prior to the adoption, amendment or repeal of a rule, an agency
22 shall determine whether negotiated rulemaking is feasible. The agency's
23 determination of whether negotiated rulemaking is feasible is not subject
24 to judicial review. If the agency determines that negotiated rulemaking is
25 feasible, it shall publish in the bulletin a notice of intent to promulgate a
26 rule. The notice shall contain a brief, nontechnical statement of the sub-
27 ject matter to be addressed in the proposed rulemaking, and shall include the
28 purpose of the rule, the statutory authority for the rulemaking, citation to
29 a specific federal statute or regulation if that is the basis of authority
30 or requirement for the rulemaking, and the principal issues involved. The
31 notice shall also state that interested persons have the opportunity to
32 participate with the agency in negotiated rulemaking as provided in this
33 section and shall identify an individual to whom comments on the proposal may
34 be sent. If the agency determines that negotiated rulemaking is not feasi-
35 ble, it shall explain why negotiated rulemaking is not feasible in a notice
36 of proposed rulemaking published pursuant to section 67-5221, Idaho Code,
37 and shall proceed with rulemaking as provided pursuant to this chapter. Each
38 agency that has a website shall cause the notice of intent to promulgate
39 rules to be placed onto or accessible from the home page of the agency's web-
40 site.

41 (2) The notice of intent to promulgate a rule is intended to facili-
42 tate negotiated rulemaking, a process in which all interested persons and
43 the agency seek consensus on the content of a rule. Agencies shall proceed
44 through such informal rulemaking whenever it is feasible to do so in order to
45 improve the substance of proposed rules by drawing upon shared information,
46 knowledge, expertise and technical abilities possessed by interested per-
47 sons and to expedite formal rulemaking.

48 (3) To facilitate the achievement of the purposes of this section,
49 agencies shall, at a minimum:

- 1 (a) Provide a reasonable period of time for interested persons to re-
2 spond to the notice of intent to promulgate rules;
- 3 (b) Provide notice of meetings to interested persons who responded to
4 the notice of intent to promulgate rules;
- 5 (c) Upon request, make available to persons attending the meetings
6 all information that is considered by the agency in connection with the
7 formulation of the proposed rule and that is not exempt from disclosure
8 pursuant to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code;
- 9 (d) Consider the recommendations of interested persons concerning the
10 subject of the proposed rule;
- 11 (e) Establish, maintain and timely update the negotiated rulemaking
12 schedule and a list of written comments and other documents and informa-
13 tion pertinent to the proposed rule and make that information available
14 to persons attending the negotiated rulemaking meeting;
- 15 (f) Prepare a written summary of unresolved issues, key information
16 considered and conclusions reached during and as a result of the negoti-
17 ated rulemaking and make that summary available to persons who attended
18 the negotiated rulemaking meetings.

19 SECTION 176. That Section 67-5241, Idaho Code, be, and the same is
20 hereby amended to read as follows:

21 67-5241. INFORMAL DISPOSITION. (1) Unless prohibited by other provi-
22 sions of law:

- 23 (a) an agency or a presiding officer may decline to initiate a contested
24 case;
- 25 (b) any part of the evidence in a contested case may be received in writ-
26 ten form if doing so will expedite the case without substantially preju-
27 dicing the interests of any party;
- 28 (c) informal disposition may be made of any contested case by negotia-
29 tion, stipulation, agreed settlement, or consent order. Informal set-
30 tlement of matters is to be encouraged;
- 31 (d) the parties may stipulate as to the facts, reserving the right to
32 appeal to a court of competent jurisdiction on issues of law.

33 (2) An agency or a presiding officer may request such additional in-
34 formation as required to decide whether to initiate or to decide a contested
35 case as provided in subsection (1) of this section.

36 (3) If an agency or a presiding officer declines to initiate or decide
37 a contested case under the provisions of this section, the agency or the of-
38 ficer shall furnish a brief statement of the reasons for the decision to all
39 persons involved. This subsection does not apply to investigations or in-
40 quiries directed to or performed by law enforcement agencies defined in sec-
41 tion ~~9-337~~ 74-101(7), Idaho Code.

42 (4) The agency may not abdicate its responsibility for any informal
43 disposition of a contested case. Disposition of a contested case as provided
44 in this section is a final agency action.

45 SECTION 177. That Section 67-5252, Idaho Code, be, and the same is
46 hereby amended to read as follows:

1 67-5252. PRESIDING OFFICER -- DISQUALIFICATION. (1) Except as pro-
2 vided in subsection (4) of this section, any party shall have the right to one
3 (1) disqualification without cause of any person serving or designated to
4 serve as presiding officer, and any party shall have a right to move to dis-
5 qualify for bias, prejudice, interest, substantial prior involvement in the
6 matter other than as a presiding officer, status as an employee of the agency
7 hearing the contested case, lack of professional knowledge in the subject
8 matter of the contested case, or any other cause provided in this chapter or
9 any cause for which a judge is or may be disqualified.

10 (2) Any party may petition for the disqualification of a person serving
11 or designated to serve as presiding officer:

12 (a) within fourteen (14) days after receipt of notice indicating that
13 the person will preside at the contested case; or

14 (b) promptly upon discovering facts establishing grounds for disquali-
15 fication, whichever is later.

16 Any party may assert a blanket disqualification for cause of all employees of
17 the agency hearing the contested case, other than the agency head, without
18 awaiting designation of a presiding officer.

19 (3) A person whose disqualification for cause is requested shall deter-
20 mine in writing whether to grant the petition, stating facts and reasons for
21 the determination.

22 (4) Where disqualification of the agency head or a member of the agency
23 head would result in an inability to decide a contested case, the actions of
24 the agency head shall be treated as a conflict of interest under the provi-
25 sions of section ~~59-704~~ 74-404, Idaho Code.

26 (5) Where a decision is required to be rendered within fourteen (14)
27 weeks of the date of a request for a hearing by state or federal statutes or
28 rules and regulations, no party shall have the right to a disqualification
29 without cause.

30 SECTION 178. That Section 67-5711C, Idaho Code, be, and the same is
31 hereby amended to read as follows:

32 67-5711C. CONSTRUCTION OF PUBLIC PROJECTS -- COMPETITIVE SEALED BID-
33 DING. (1) All construction contracts for public works shall be awarded to
34 the lowest responsible and responsive bidder after receipt of competitive
35 sealed bidding except as otherwise provided in sections 67-5711B, 67-5711D
36 and 67-5713, Idaho Code.

37 (2) An invitation for bids shall be issued and shall include a project
38 description and all contractual terms and conditions applicable to the pub-
39 lic works.

40 (3) Adequate public notice of the invitation for bids shall be given at
41 least fourteen (14) days prior to the date set forth therein for the opening
42 of bids. Such notice shall include publication at least fourteen (14) days
43 prior to bid opening in a newspaper of general circulation in the area where
44 the work is located.

45 (4) When prequalification is deemed by the department and by the re-
46 spective state agency to be in the best interest of the state, competitive
47 bidding procedures shall be open only to licensed public works contractors
48 that meet preliminary supplemental qualifications. The solicitation for
49 bids in a prequalified bidder public works project shall consist of two

1 (2) stages, an initial stage for identifying prequalified contractors, ei-
2 ther prime or specialty contractors, followed by a stage during which bid
3 prices will be accepted only from prequalified contractors. Notice of the
4 prequalification stage shall be given in the same manner that notice of
5 open competitive bidding is provided. Prequalification standards must be
6 premised upon demonstrated technical competence, experience constructing
7 similar facilities, prior experience with the state, past performance (re-
8 lated to quality, workmanship and timeliness), reliability, safety record,
9 available nonfinancial resources, equipment and personnel as they relate
10 to the subject project, and overall performance history based upon a con-
11 tractor's entire body of work. Any request for qualifications must include
12 the standards for evaluating the qualifications of prospective bidders.
13 Licensed contractors desiring to be prequalified to bid on a project must
14 submit a written response to a request for qualifications. After a review of
15 qualification submittals, licensed contractors that meet the prequalifica-
16 tion standards shall be so notified and licensed contractors that do not meet
17 the prequalification standards shall also be so notified. Thereafter, bids
18 may be solicited from contractors that meet the prequalification standards.
19 The department may promulgate rules or develop procedures to implement the
20 prequalification process.

21 (5) Bids shall be opened publicly at the time and place designated in
22 the invitation for bids. The amount of each bid and such other relevant
23 information as may be specified by rules, together with the name of each
24 bidder, shall be entered on a record and the record shall be open to public
25 inspection. After the time of the award all bids and bid documents shall
26 be open to public inspection in accordance with the provisions of ~~sections~~
27 ~~9-337 through 9-347~~ chapter 1, title 74, and section 67-5725, Idaho Code.

28 (6) With respect to a project having a written cost estimate of greater
29 than twenty-five thousand dollars (\$25,000) but less than the public works
30 limit established in section 67-5711, Idaho Code, the agency, if it does not
31 perform the work with existing physical plant staff, must award a written
32 contract to the lowest responsible and responsive bidder after soliciting at
33 least three (3) documented informal bids from contractors licensed in Idaho
34 to perform public works contracts, if reasonably available. Adequate pub-
35 lic notice of the invitation for informal bids shall be given at least seven
36 (7) days prior to the date set forth therein for the receipt of the infor-
37 mal bids. Such notice may include publication at least seven (7) days prior
38 to bid opening in a newspaper of general circulation in the area where the
39 work is located; or the agency may advertise the invitation for bids in ap-
40 propriate trade journals, and otherwise notify persons believed to be inter-
41 ested in the award of a contract. Informal bids must be submitted by the con-
42 tractor in writing in response to a prepared written document describing the
43 project's scope of work in sufficient detail so as to enable a contractor fa-
44 miliar with such work to prepare a responsible bid. Nothing herein exempts
45 an agency from the responsibility of utilizing formal plans and specifica-
46 tions if the work involves the public health or safety as described in chap-
47 ters 3 and 12, title 54, Idaho Code. The agency must document receipt of the
48 informal bids in the project file.

49 (7) Any personal property including goods, parts, supplies and equip-
50 ment which is to be supplied or provided by a state agency for use in any pub-

1 lic work, project, or preventive maintenance programs, whether the public
2 work, project, or preventive maintenance program is constructed, undertaken
3 or performed by agency in-house personnel, or by delegation pursuant to sec-
4 tion 67-5710A, Idaho Code, or otherwise provided or supplied by the agency
5 to a contractor, the personal property, goods, parts, supplies or equip-
6 ment supplied or provided by the agency must be purchased or procured by the
7 agency through the division of purchasing in accordance with the Idaho Code.

8 SECTION 179. That Section 67-5711D, Idaho Code, be, and the same is
9 hereby amended to read as follows:

10 67-5711D. ENERGY SAVINGS PERFORMANCE CONTRACTS. (1) Definitions. As
11 used in this section:

12 (a) "Cost-savings measure" means any facility improvement, repair or
13 alteration to an existing facility, or any equipment, fixture or fur-
14 nishing to be added or used in any existing facility that is designed
15 to reduce energy consumption and energy operating costs or increase the
16 energy efficiency of facilities for their appointed functions that are
17 cost effective. "Cost-savings measure" includes, but is not limited
18 to, one (1) or more of the following:

19 (i) Procurement of low-cost energy supplies of all types, in-
20 cluding electricity, natural gas and water;

21 (ii) Insulating the building structure or systems in the build-
22 ing;

23 (iii) Storm windows or doors, caulking or weather stripping,
24 multiglazed windows or door systems, heat-absorbing or heat-re-
25 flective glazed and coated window and door systems, additional
26 glazing, reductions in glass area or other window and door system
27 modifications that reduce energy consumption;

28 (iv) Automated or computerized energy control systems;

29 (v) Heating, ventilation or air conditioning system modifica-
30 tions or replacements;

31 (vi) Replacing or modifying lighting fixtures to increase the en-
32 ergy efficiency of the lighting system;

33 (vii) Energy recovery systems;

34 (viii) Cogeneration systems that produce steam or forms of energy
35 such as heat, as well as electricity, for use primarily within a
36 building or complex of buildings;

37 (ix) Installing new or modifying existing day lighting systems;

38 (x) Installing or modifying renewable energy and alternate en-
39 ergy technologies;

40 (xi) Building operation programs that reduce energy costs in-
41 cluding, but not limited to, computerized programs, training and
42 other similar activities;

43 (xii) Steam trap improvement programs that reduce energy costs;

44 (xiii) Devices that reduce water consumption; and

45 (xiv) Any additional building infrastructure improvements that
46 produce energy cost savings, significantly reduce energy consump-
47 tion or increase the energy efficiency of the facilities for their
48 appointed functions and are in compliance with all applicable
49 state building codes.

1 (b) "Director" means the director of the department of administration
2 or the director's designee.

3 (c) "Energy cost savings" means any expenses that are eliminated or
4 avoided on a long-term basis as a result of equipment installed or mod-
5 ified, or services performed by a qualified energy service company or
6 a qualified provider, but does not include merely shifting personnel
7 costs or similar short-term cost savings.

8 (d) "Financial grade energy audit" means a comprehensive building en-
9 ergy systems audit performed by a professional engineer licensed in the
10 state of Idaho for the purpose of identifying and documenting feasible
11 energy and resource conservation measures and cost-savings factors.

12 (e) "Performance contract" means a contract between the director or the
13 public entity and a qualified provider or a qualified energy service
14 company for evaluation, recommendation and implementation of one (1) or
15 more cost-savings measures. A performance contract may be structured
16 as either:

17 (i) A guaranteed energy savings performance contract, which
18 shall include, at a minimum, the design and installation of equip-
19 ment and, if applicable, operation and maintenance of any of the
20 measures implemented. Guaranteed annual savings must meet or
21 exceed the total annual contract payments made by the director or
22 the user agency or the public entity for such contract, including
23 financing charges to be incurred over the life of the contract; or

24 (ii) A shared savings contract, which shall include provisions
25 mutually agreed upon by the director and the qualified provider or
26 qualified energy service company as to the rate of payments based
27 upon energy cost savings and a stipulated maximum energy consump-
28 tion level over the life of the contract.

29 (f) "Person" means an individual, corporation, partnership, firm, as-
30 sociation, limited liability company, limited liability partnership or
31 other such entity as recognized by the state of Idaho.

32 (g) "Public entity" means the cities, counties and school districts or
33 any political subdivision within the state of Idaho.

34 (h) "Qualified energy service company" means a person with a record of
35 established projects or with demonstrated technical, operational, fi-
36 nancial and managerial capabilities to implement performance contracts
37 and who currently holds an Idaho public works contractor license appro-
38 priate for the work being performed.

39 (i) "Qualified provider" means a person who is experienced in the de-
40 sign, implementation and installation of energy efficiency and facil-
41 ity improvement measures, who has the ability to secure necessary fi-
42 nancial measures to support energy savings guarantees and the technical
43 capabilities to ensure such measures generate energy cost savings, and
44 who currently holds an Idaho public works contractor license appropri-
45 ate for the work being performed.

46 (2) Performance contracts. The director of the department of admin-
47 istration, subject to the approval of the permanent building fund advisory
48 council, or any Idaho public entity may enter into a performance contract
49 with a qualified provider or qualified energy service company to reduce en-
50 ergy consumption or energy operating costs. Cost-savings measures imple-

1 mented under such contracts shall comply with all applicable state and local
2 building codes.

3 (3) Requests for qualifications. The director of the department of ad-
4 ministration or the public entity shall request qualifications from quali-
5 fied providers and qualified energy service companies inviting them to sub-
6 mit information describing their capabilities in the areas of:

7 (a) Design, engineering, installation, maintenance and repairs asso-
8 ciated with performance contracts;

9 (b) Experience in conversions to a different energy or fuel source,
10 so long as it is associated with a comprehensive energy efficiency
11 retrofit;

12 (c) Postinstallation project monitoring, data collection and report-
13 ing of savings;

14 (d) Overall project experience and qualifications;

15 (e) Management capability;

16 (f) Ability to assess the availability of long-term financing;

17 (g) Experience with projects of similar size and scope; and

18 (h) Other factors determined by the director or the public entity to
19 be relevant and appropriate relating to the ability of the qualified
20 provider or qualified energy service company to perform the project.

21 (4) Notice. Adequate public notice of the request for qualifications
22 shall be given at least fourteen (14) days prior to the date set forth therein
23 for the opening of the responses to the request for qualifications. Such no-
24 tice may be provided electronically or by publication in a newspaper of gen-
25 eral circulation in the area where the work is located.

26 (5) Public inspection. All records of the department or an agency or
27 the public entity relating to the award of a performance contract shall be
28 open to public inspection in accordance with the provisions of ~~sections~~
29 ~~9-337 through 9-347~~ chapter 1, title 74, and section 67-5725, Idaho Code.

30 (6) Award of performance contract.

31 (a) The director or public entity shall select up to three (3) qualified
32 providers or qualified energy service companies who have responded to
33 the request for qualifications. Factors to be considered in selecting
34 the successful qualified provider or qualified energy service company
35 shall include, but not be limited to:

36 (i) Fee structure;

37 (ii) Contract terms;

38 (iii) Comprehensiveness of the proposal and cost-savings mea-
39 sures;

40 (iv) Experience of the qualified provider or qualified energy
41 service company;

42 (v) Quality of the technical approach of the qualified provider
43 or qualified energy service company; and

44 (vi) Overall benefits to the state or the public entity.

45 (b) Notwithstanding the provisions of section 67-5711C, Idaho Code,
46 the director or the public entity may, following the request for qual-
47 ifications and the expiration of the specified notice period, award
48 the performance contract to the qualified provider or qualified energy
49 service company which best meets the needs of the project and whose

1 proposal may or may not represent the lowest cost among the proposals
2 submitted pursuant to this section.

3 (c) Upon award of the performance contract, the successful qualified
4 provider or qualified energy service company shall prepare a financial
5 grade energy audit which, upon acceptance by the director or the public
6 entity, shall become a part of the final performance contract.

7 (7) Installment payment and lease-purchase agreements. Pursuant to
8 this section, the director or the public entity may enter into a performance
9 contract, payments for which shall be made by the user agency or public en-
10 tity. Such performance contracts may be financed as installment payment
11 contracts or lease-purchase agreements for the purchase and installation of
12 cost-savings measures. Financing implemented through another person other
13 than the qualified provider or qualified energy service company is autho-
14 rized.

15 (8) Terms of performance contract.

16 (a) Each performance contract shall provide that all payments between
17 parties, except obligations upon termination of the contract before its
18 expiration, shall be made over time and that the objective of such per-
19 formance contract is the implementation of cost-savings measures and
20 energy cost savings.

21 (b) A performance contract, and payments provided thereunder, may ex-
22 tend beyond the fiscal year in which the performance contract becomes
23 effective, subject to appropriation by the legislature or by the public
24 entity, for costs incurred in future fiscal years. The performance con-
25 tract may extend for a term not to exceed twenty-five (25) years. The
26 permissible length of the contract may also reflect the useful life of
27 the cost-savings measures.

28 (c) Performance contracts may provide for payments over a period of
29 time not to exceed deadlines specified in the performance contract from
30 the date of the final installation of the cost-savings measures.

31 (d) Performance contracts entered pursuant to this section may be
32 amended or modified, upon agreement by the director or the public entity
33 and the qualified provider or qualified energy service company, on an
34 annual basis.

35 (9) Monitoring and reports. During the term of each performance con-
36 tract, the qualified provider or qualified energy service company shall
37 monitor the reductions in energy consumption and cost savings attributable
38 to the cost-savings measures installed pursuant to the performance contract
39 and shall annually prepare and provide a report to the director or the public
40 entity documenting the performance of the cost-savings measures.

41 SECTION 180. That Section 67-5725, Idaho Code, be, and the same is
42 hereby amended to read as follows:

43 67-5725. PRESERVATION OF RECORDS -- WRITTEN CONTRACTS -- VOID CON-
44 TRACTS. The administrator shall preserve all records of bids and acquisi-
45 tions in his office, and information with respect thereto, in such form as
46 he shall prescribe for a period of three (3) years after the date of final
47 action, or for a period of time as may be proscribed by the record retention
48 guideline schedule approved by the director of the department of adminis-
49 tration. The records shall be subject to disclosure according to ~~chapter 3,~~

1 ~~title 9~~ chapter 1, title 74, Idaho Code. Notwithstanding the foregoing, when
2 an invitation to bid or a request for proposals is canceled prior to award of
3 a purchase order or contract, the administrator shall immediately return all
4 bids or proposals to the submitting vendor and those bids or proposals shall
5 not be subject to disclosure under ~~chapter 3, title 9~~ chapter 1, title 74,
6 Idaho Code.

7 Every contract made by the administrator in behalf of the state shall
8 be reduced to writing and signed by the contracting parties with their names
9 at the end thereof and filed in the office of the administrator, together
10 with all bids, specifications, and all other documents and records associ-
11 ated with the acquisition or intended acquisition.

12 All contracts or agreements made in violation of the provisions of this
13 chapter shall be void and any sum of money advanced by the state of Idaho in
14 consideration of any such contract or agreement shall be repaid forthwith.
15 In the event of refusal or delay when repayment is demanded by the proper of-
16 ficer of the state of Idaho, under whose authority such contract or agreement
17 shall have been made or entered into, every person so refusing or delaying,
18 together with his surety or sureties, shall be forthwith prosecuted at law
19 for the recovery of such sum of money so advanced.

20 SECTION 181. That Section 67-5768, Idaho Code, be, and the same is
21 hereby amended to read as follows:

22 67-5768. NOMINAL POLICYHOLDER -- NO OBLIGATION TO STATE. (1) In poli-
23 cies and contracts procured by the director of the department of administra-
24 tion under this act and covering personnel of any state office, department,
25 division, board, commission, institution, agency and operation, the direc-
26 tor of the department of administration shall be designated as the nominal
27 policyholder or contract holder.

28 (2) No policy or contract shall create, or be deemed to constitute, any
29 financial obligation on the part of the state of Idaho beyond the obligation,
30 to contribute for or upon current premiums or prepayments thereof.

31 (3) Except as hereinafter provided, information obtained from any em-
32 ployee, dependent or retiree insured under this act shall be subject to dis-
33 closure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code; pro-
34 vided however, that if the affected employee, dependent or retiree waives in
35 writing the right to hold such information confidential, said information
36 may be disclosed.

37 SECTION 182. That Section 67-5781, Idaho Code, be, and the same is
38 hereby amended to read as follows:

39 67-5781. AGENCIES TO PROVIDE RECORDS AND DATA. (1) Every state agency
40 shall, no later than January 15, 2009, provide records, in an electronic
41 format acceptable to the department of administration, of all interests in
42 any real property owned, used or granted by it including, without limita-
43 tion, records of ownership, leases, encumbrances, easements, rights-of-way
44 leases or any other interest in real property, and on a regular and continu-
45 ous basis, update such records and provide any new records to the department
46 of administration. Metadata will accompany all state agency records.

1 (2) For the purposes of this section, the Idaho transportation de-
2 partment shall provide highway right-of-way records from January 1, 2002,
3 forward, augmented thereafter each time real property owned by the state of
4 Idaho is affected as part of the Idaho transportation department's regular
5 course of business.

6 (3) For purposes of this section, state agencies shall provide only
7 records and geographic information that are subject to disclosure under
8 ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, or that the agency has
9 determined to disclose as a public record.

10 SECTION 183. That Section 67-7410, Idaho Code, be, and the same is
11 hereby amended to read as follows:

12 67-7410. DIRECTOR OF LOTTERY SECURITY. The director shall hire a secu-
13 rity director who shall manage the lottery's security division. The secu-
14 rity division shall be responsible for the performance of background inves-
15 tigation of employees, lottery retailers, bingo and raffle operators, ven-
16 dors and major procurement contractors and for the enforcement of the crim-
17 inal provisions of this chapter. In addition, the security division shall
18 develop a security plan to be implemented by the lottery. The lottery's se-
19 curity division is herein designated as an Idaho law enforcement agency. The
20 director of security has the authority to:

21 (1) Issue administrative subpoenas during the conduct of investiga-
22 tions in accordance with commission rules and this chapter;

23 (2) Require fingerprint-based criminal history check of the Idaho cen-
24 tral database and the federal bureau of investigation's criminal history
25 database on prospective employees, vendors, contractors, lottery retailers
26 and bingo and raffle operators; and

27 (3) Access criminal offender record information from the Idaho state
28 police for the purpose of background or other investigations performed in
29 accordance with this chapter.

30 Such information obtained and kept by the security director shall be
31 subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74,
32 Idaho Code. Nothing herein shall prohibit the lottery from disclosing
33 information obtained by it to law enforcement agencies or other lottery or-
34 ganizations for security or enforcement purposes.

35 SECTION 184. That Section 67-7421, Idaho Code, be, and the same is
36 hereby amended to read as follows:

37 67-7421. LOTTERY VENDOR DISCLOSURES FOR MAJOR PROCUREMENTS. This
38 section is provided to allow the commission to evaluate the competence,
39 integrity, background, character and the nature of the true ownership and
40 control of lottery vendors. The commission may require any person, as a part
41 of a major procurement, to disclose at the time of submitting such bid, pro-
42 posal or offer to the commission the following information:

43 (1) If the vendor is a partnership or joint venture, the names and ad-
44 dresses of all of the general and limited partners or joint venturers; if
45 such general and limited partners or joint venturers are themselves a part-
46 nership, joint venture, trust, association, corporation, subsidiary, or in-

1 intermediary corporation, the same information required by this section shall
2 be supplied for such entities also;

3 (2) If the vendor is a trust, the names and addresses of the trustee and
4 all persons entitled to receive income or benefit of the trust;

5 (3) If the vendor is an association, the names and addresses of the mem-
6 bers, officers and directors;

7 (4) If the vendor is a corporation, the names and addresses of the offi-
8 cers, directors and each owner or holder, directly or indirectly, of any eq-
9 uity security or other evidence of ownership of any interest in such corpora-
10 tion; except that, in the case of owners or holders of publicly held securi-
11 ties of an intermediary company, holding company, or parent company that is
12 a publicly traded corporation, only the names and addresses of those owning
13 or holding five percent (5%) or more of such publicly held securities need be
14 disclosed;

15 (5) If the vendor intends to or does subcontract to another person or
16 entity any integral or substantial portion of the work to be performed in
17 supplying such materials, equipment or services, then the vendor shall sup-
18 ply the information required by subparagraphs in this section for all such
19 persons or entities;

20 (6) If the vendor is a corporation, the names of all the states in which
21 the vendor is incorporated to do business, and the nature of that business;

22 (7) The names of other jurisdictions in which the vendor has contracts
23 to supply gaming materials, equipment or services and the types of gaming ma-
24 terials, equipment or services involved therewith;

25 (8) The details of any felony conviction of a criminal offense, state or
26 federal, of the vendor or any person whose name and address are required by
27 the disclosure requirements of this section;

28 (9) The details of any disciplinary action of a judicial nature taken
29 by any state against the vendor or any person whose name and address are re-
30 quired by this section regarding any matter related to the selling, leas-
31 ing, offering for sale or lease, buying, or servicing of gaming materials or
32 equipment;

33 (10) Audited financial statements for the most recent five (5) years
34 and a statement of the gross receipts realized in the preceding year from
35 the sale, lease or distribution of gaming materials, equipment or services.
36 This information shall be subject to disclosure according to ~~chapter 3, ti-~~
37 ~~tle 9~~ chapter 1, title 74, Idaho Code;

38 (11) The name and address of any source of game materials, equipment or
39 services for the vendor; and

40 (12) Such other information, accompanied by such documents, as the com-
41 mission, by rule, regulation or contract procurement documents, may require
42 as being necessary or appropriate in the public interest to accomplish the
43 purposes of this section.

44 A major procurement contractor shall report immediately any changes in
45 the information required in this section.

46 SECTION 185. That Section 67-7436, Idaho Code, be, and the same is
47 hereby amended to read as follows:

48 67-7436. AUDITS. A certified public accounting firm appointed by the
49 commission shall conduct audits of all accounts and transactions of the

1 state lottery. The director and his agents conducting an audit under this
2 chapter shall have access and authority to examine any and all lottery-re-
3 lated records of lottery vendors and retailers. Such records shall be
4 subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74,
5 Idaho Code.

6 SECTION 186. That Section 67-7437, Idaho Code, be, and the same is
7 hereby amended to read as follows:

8 67-7437. PRIZES. Except as otherwise provided in this section, any
9 prize won under this chapter is not assignable. If the prize winner dies
10 before the prize is paid, the prize shall be paid to the estate of the prize
11 winner. A prize is subject to garnishment and recovery for unpaid taxes,
12 child or spousal support or public assistance benefits paid and recoverable
13 by the state or any county, or by a person pursuant to a judgment and execu-
14 tion under an order of the court. A prize shall also be subject to immediate
15 withholding and set-off to collect any support delinquency or state taxes
16 owed upon notification from the department of health and welfare pursuant to
17 section 56-203E, Idaho Code, or the state tax commission pursuant to section
18 63-3060, Idaho Code. The state lottery shall not pay a prize claim until the
19 lottery ticket or share has passed the validation tests established by the
20 state lottery.

21 No prize shall be paid arising from claimed tickets or shares that are
22 stolen, counterfeit, altered, fraudulent, unissued, produced or issued
23 in error, unreadable, not received or not recorded by the state lottery by
24 applicable deadlines, lacking in captions that confirm and agree with the
25 state lottery play symbols as appropriate to the game involved, or not in
26 compliance with such additional specific rules and regulations and public
27 or confidential validation and security tests of the state lottery appro-
28 priate to the particular lottery game involved. Confidential validation or
29 security tests shall be subject to disclosure according to ~~chapter 3, title 9~~
30 chapter 1, title 74, Idaho Code.

31 No particular prize in any lottery game may be paid more than once, and
32 in the event of a binding determination that more than one (1) claimant is en-
33 titled to a particular prize, the sole remedy of such claimants is the award
34 to each of them an equal share in the prize.

35 SECTION 187. That Section 67-7441, Idaho Code, be, and the same is
36 hereby amended to read as follows:

37 67-7441. RECORDS. All papers, records, correspondence, communica-
38 tions and proceedings of the Idaho state lottery and the commission shall
39 be open to the public except as otherwise provided by statute; provided,
40 however, that business records and information provided to the state lottery
41 pursuant to sections 67-7412(8) and (9) and 67-7420(8) and (9), Idaho Code,
42 shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1,
43 title 74, Idaho Code.

44 No lottery employee shall divulge or make known to any person in any man-
45 ner any information which is exempt from disclosure, whatsoever, obtained
46 directly or indirectly by him in the discharge of his duties, or permit any

1 copy thereof to be seen. Any employee violating provisions of this section
2 shall be guilty of a misdemeanor.

3 SECTION 188. That Section 67-7445, Idaho Code, be, and the same is
4 hereby amended to read as follows:

5 67-7445. CONDITIONS OF PURCHASE. By purchasing a ticket or share in a
6 lottery game, a player agrees to abide by, and be bound by, the commission's
7 rules and regulations and by lottery game rules developed by the commission
8 to apply to any particular lottery game involved. In particular, and with-
9 out limitation, the player acknowledges, that the determination of whether
10 the player is a valid winner is subject to winner validation procedures and
11 confidential validation and security tests established by the state lottery
12 for the particular lottery game. Confidential validation and security tests
13 shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, ti-
14 tle 74, Idaho Code.

15 SECTION 189. That Section 67-8906, Idaho Code, be, and the same is
16 hereby amended to read as follows:

17 67-8906. QUORUM -- MODE OF ACTION -- COMPENSATION. (1) Four (4) direc-
18 tors of the authority shall constitute a quorum for the purpose of conducting
19 business and exercising its powers.

20 (2) Action may be taken by the authority upon the affirmative vote of at
21 least four (4) directors. No vacancy on the board shall impair the right of
22 a quorum to exercise all the rights and perform all the duties of the author-
23 ity.

24 (3) Notice of meetings shall be given as provided in ~~sections 67-2341~~
25 ~~through 67-2347~~ chapter 2, title 74, Idaho Code, and the bylaws of the au-
26 thority.

27 (4) The board may hold any of its meetings by telephone, teleconference
28 or other electronic means, as and to the extent provided in its bylaws.

29 (5) The board shall act by resolution or order which shall be recorded
30 in its official minutes but need not be published or posted.

31 (6) Directors shall be compensated for services as provided by section
32 59-509(o), Idaho Code.

33 SECTION 190. That Section 69-250, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 69-250. CONFIDENTIAL AND PROTECTED RECORDS. Records required by the
36 department including, but not limited to, production summaries, receiving
37 records, conditioning reports, records relating to the payment of agricul-
38 tural commodities, commodity indemnity fund and seed indemnity fund report-
39 ing forms of a warehouseman, and financial records that are required pur-
40 suant to section 69-206(6), Idaho Code, shall be held confidential and will
41 be protected as production records according to ~~chapter 3, title 9~~ chapter 1,
42 title 74, Idaho Code. These records shall not be subject to disclosure un-
43 less specifically authorized in writing by the licensee or as otherwise au-
44 thorized pursuant to the provisions of ~~chapter 3, title 9~~ chapter 1, title
45 74, Idaho Code.

1 SECTION 191. That Section 69-515, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 69-515. CONFIDENTIAL AND PROTECTED RECORDS. Records required by the
4 department including, but not limited to, production summaries, receiving
5 records, conditioning reports, records relating to the payment of agri-
6 cultural commodities, commodity indemnity fund and seed indemnity fund
7 reporting forms of a commodity dealer, and financial records that are re-
8 quired pursuant to sections 69-503(6) and 69-521, Idaho Code, shall be
9 held confidential and will be protected as production records according to
10 ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. These records shall not
11 be subject to disclosure unless specifically authorized in writing by the
12 licensee or as otherwise authorized pursuant to the provisions of ~~chapter 3,~~
13 ~~title 9~~ chapter 1, title 74, Idaho Code.

14 SECTION 192. That Section 72-603, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 72-603. EMPLOYERS' REPORT OF EMPLOYEES. Requirement to keep records
17 and to report. Subject to the provisions of this law, every employer shall
18 keep an accurate record of the number and job classification of his employ-
19 ees and the wages paid, and upon demand of the commission shall furnish the
20 commission a sworn statement of the same. Such records shall not be open to
21 inspection except on request of the commission. The commission shall have
22 the right, at any time and as often as it requires, to verify the number of em-
23 ployees and the amount of the payroll, and to inspect or cause to be inspected
24 such records.

25 Information received from employers shall be subject to disclosure as
26 provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

27 SECTION 193. That Section 72-926, Idaho Code, be, and the same is hereby
28 amended to read as follows:

29 72-926. DISCLOSURES PROHIBITED. Information acquired by the manager
30 from employers or employees pursuant to this chapter shall be subject to dis-
31 closure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, and
32 any officer or employee of the manager or of the state insurance fund who,
33 without authority of the manager or pursuant to his rules, or as otherwise
34 required by law, shall disclose the same, shall be guilty of a misdemeanor.

35 SECTION 194. That Section 72-1007, Idaho Code, be, and the same is
36 hereby amended to read as follows:

37 72-1007. PUBLIC INSPECTION AND DISCLOSURE OF COMMISSION'S
38 RECORDS. The information and records the commission maintains in its posses-
39 sion in the administration of this chapter shall be kept confidential and are
40 exempt from public disclosure under ~~chapter 3, title 9~~ chapter 1, title 74,
41 Idaho Code, provided however:

42 (1) During the commission's regular office hours any claimant, or his
43 attorney or authorized representative, may examine all files maintained by
44 the commission in connection with his application for compensation;

1 (2) Upon an adequate showing to the court in a separate civil or crim-
2 inal action that the specific information or records are not obtainable
3 through diligent effort from any independent source, the court may inspect
4 such records in camera to determine whether the public interest in disclos-
5 ing the records outweighs the public or private interest in maintaining the
6 confidentiality of such records;

7 (3) Information and records maintained by the commission may be dis-
8 closed to public employees and officials in the performance of their offi-
9 cial duties; and

10 (4) Information and records maintained by the commission may be dis-
11 closed to health care providers who are:

12 (a) Treating or examining victims claiming benefits under this chap-
13 ter; or

14 (b) Giving medical advice to the commission regarding any claim.

15 SECTION 195. That Section 72-1342, Idaho Code, be, and the same is
16 hereby amended to read as follows:

17 72-1342. DISCLOSURE OF INFORMATION. Employment security information,
18 as defined in section ~~9-340C~~ 74-106(7), Idaho Code, shall be exempt from dis-
19 closure as provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code,
20 except that such information may be disclosed as is necessary for the proper
21 administration of programs under this chapter or may be made available to
22 public officials for use in the performance of official duties subject to
23 such restrictions and fees as the director may by rule prescribe. The direc-
24 tor may by rule prescribe the form of written, informed consent by a person
25 that is adequate for disclosure of employment security information pertain-
26 ing to that person to a third party, as provided in section ~~9-340C~~ 74-106(7),
27 Idaho Code, and the security requirements and cost provisions that apply to
28 such disclosures.

29 SECTION 196. That Section 72-1372, Idaho Code, be, and the same is
30 hereby amended to read as follows:

31 72-1372. CIVIL PENALTIES. (1) The following civil penalties shall be
32 assessed by the director:

33 (a) If a determination is made finding that an employer willfully filed
34 a false report, a monetary penalty equal to one hundred percent (100%)
35 of the amount that would be due if the employer had filed a correct re-
36 port or two hundred fifty dollars (\$250), whichever is greater, shall
37 be added to the liability of the employer for each quarter for which the
38 employer willfully filed a false report. For the purposes of this sec-
39 tion, a false report includes, but is not limited to, a report for a pe-
40 riod wherein an employer pays remuneration for personal services which
41 meets the definition of "wages" under section 72-1328, Idaho Code, and
42 the payment is concealed, hidden, or otherwise not reported to the de-
43 partment.

44 (b) If a determination is made finding that an employer willfully
45 failed to file the employer's quarterly unemployment insurance tax re-
46 port when due, the director shall assess a monetary penalty equal to:

1 (i) Seventy-five dollars (\$75.00) or twenty-five percent (25%)
2 of the amount that would be due if the employer had filed a timely
3 quarterly report, whichever is greater, if the employer had not
4 been found in any previous determination to have willfully failed
5 to file a timely quarterly report for any of the sixteen (16) pre-
6 ceding consecutive calendar quarters; or

7 (ii) One hundred fifty dollars (\$150) or fifty percent (50%) of
8 the amount that would be due if the employer had filed a timely
9 quarterly report, whichever is greater, if the employer had been
10 found in any previous determination to have willfully failed to
11 file a timely quarterly report for no more than one (1) of the six-
12 teen (16) preceding consecutive calendar quarters; or

13 (iii) Two hundred fifty dollars (\$250) or one hundred percent
14 (100%) of the amount that would be due if the employer had filed a
15 timely quarterly report, whichever is greater, if the employer had
16 been found in any previous determination or determinations to have
17 willfully failed to file a timely quarterly report for two (2) or
18 more of the sixteen (16) preceding consecutive calendar quarters.

19 (c) If a determination is made finding that an employer, or any offi-
20 cicer or agent or employee of the employer with the employer's knowledge,
21 willfully made a false statement or representation or willfully failed
22 to report a material fact when submitting facts to the department
23 concerning a claimant's separation from the employer, a penalty in
24 an amount equal to ten (10) times the weekly benefit amount of such
25 claimant shall be added to the liability of the employer.

26 (d) If a determination is made finding that an employer has induced, so-
27 licited, coerced or colluded with an employee or former employee to file
28 a false or fraudulent claim for benefits under this chapter, a penalty
29 in an amount equal to ten (10) times the weekly benefit amount of such
30 employee or former employee shall be added to the liability of the em-
31 ployer.

32 (e) If a determination is made finding that an employer failed to com-
33 plete and submit an Idaho business registration form when due, as re-
34 quired by section 72-1337(1), Idaho Code, a penalty of five hundred dol-
35 lars (\$500) shall be assessed against the employer.

36 (f) For purposes of paragraphs (c) and (d) of this subsection (1), the
37 term "weekly benefit amount" means the amount calculated pursuant to
38 section 72-1367(2), Idaho Code.

39 (g) If a determination is made finding that a person has made any unau-
40 thorized disclosure of employment security information in violation of
41 the provisions of ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, or
42 section 72-1342, Idaho Code, or rules promulgated thereunder, a penalty
43 of five hundred dollars (\$500) for each act of unauthorized disclosure
44 shall be assessed against the person.

45 (h) If a determination is made finding that a professional employer
46 failed to submit a separate quarterly wage report for each client as
47 required in section 72-1349B(4), Idaho Code, the director shall assess
48 a monetary penalty equal to one hundred dollars (\$100) for each client
49 not separately reported by the professional employer; provided that the

1 maximum penalty for any quarter shall not exceed five thousand dollars
2 (\$5,000).

3 (2) At the discretion of the director, the department may waive all or
4 any part of the penalties imposed pursuant to subsection (1) of this section
5 if the employer shows to the satisfaction of the director that it had good
6 cause for failing to comply with the requirements of this chapter and rules
7 promulgated thereunder.

8 (3) Determinations imposing civil penalties pursuant to this section
9 shall be served in accordance with section 72-1368(5), Idaho Code. Penal-
10 ties imposed pursuant to this section shall be due and payable twenty (20)
11 days after the date the determination was served unless an appeal is filed
12 in accordance with section 72-1368, Idaho Code, and rules promulgated there-
13 under. Such appeals shall be conducted in accordance with section 72-1368,
14 Idaho Code, and rules promulgated thereunder.

15 (4) Civil penalties imposed by this section shall be in addition to any
16 other penalties authorized by this chapter. The provisions of this chap-
17 ter that apply to the collection of contributions, and the rules promulgated
18 thereunder, shall also apply to the collection of penalties imposed pursuant
19 to this section. Amounts collected pursuant to this section shall be paid
20 into the state employment security administrative and reimbursement fund as
21 established by section 72-1348, Idaho Code.

22 SECTION 197. That Section 72-1374, Idaho Code, be, and the same is
23 hereby amended to read as follows:

24 72-1374. UNAUTHORIZED DISCLOSURE OF INFORMATION. If any of the fol-
25 lowing persons, in violation of the provisions of ~~chapter 3, title 9~~ chapter
26 1, title 74, Idaho Code, or section 72-1342, Idaho Code, or rules promulgated
27 thereunder, makes any unauthorized disclosure of employment security infor-
28 mation, each act of unauthorized disclosure shall constitute a separate mis-
29 demeanor:

- 30 (1) Any employee of the department;
31 (2) Any employee or member of the commission;
32 (3) Any third party or employee thereof who has obtained employment se-
33 curity information pertaining to a person with the written, informed consent
34 of that person;
35 (4) Any public official who has obtained employment security informa-
36 tion for use in the performance of official duties; or
37 (5) Any person who has obtained employment security information
38 through means that violate the provisions of ~~chapter 3, title 9~~ chapter 1,
39 title 74, Idaho Code, or this chapter, or rules promulgated thereunder.

40 SECTION 198. The provisions of Section 71 of this act shall be in full
41 force and effect on and after July 1, 2018.