

IN THE SENATE

SENATE BILL NO. 1040

BY STATE AFFAIRS COMMITTEE

AN ACT

1  
2 RELATING TO CODIFIER'S CORRECTIONS; AMENDING SECTION 6-1601, IDAHO CODE,  
3 TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS;  
4 AMENDING SECTION 16-1506, IDAHO CODE, TO PROVIDE A CORRECT CODE REF-  
5 ERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1602,  
6 IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL  
7 CORRECTIONS; AMENDING SECTION 16-1620, IDAHO CODE, TO MAKE CODIFIER'S  
8 CORRECTIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION  
9 16-1621, IDAHO CODE, TO MAKE CODIFIER'S CORRECTIONS AND TO MAKE TECH-  
10 NICAL CORRECTIONS; AMENDING SECTION 16-1644, IDAHO CODE, AS ENACTED  
11 BY SECTION 7, CHAPTER 347, LAWS OF 2016, TO REDESIGNATE THE SECTION;  
12 AMENDING SECTION 16-1644, IDAHO CODE, AS ENACTED BY SECTION 1, CHAPTER  
13 284, LAWS OF 2016, TO REDESIGNATE THE SECTION; AMENDING SECTION 19-862,  
14 IDAHO CODE, TO MAKE CODIFIER'S CORRECTIONS; AMENDING SECTION 20-213A,  
15 IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL  
16 CORRECTIONS; AMENDING SECTION 20-533A, IDAHO CODE, TO PROVIDE A COR-  
17 RECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION  
18 23-902, IDAHO CODE, TO MAKE CODIFIER'S CORRECTIONS; AMENDING SECTION  
19 30-29-1601, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING  
20 SECTION 31-1433, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO  
21 MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-518, IDAHO CODE, TO  
22 PROVIDE A CORRECT CODE REFERENCE; AMENDING CHAPTER 56, TITLE 33, IDAHO  
23 CODE, AS ENACTED BY SECTION 1, CHAPTER 143, LAWS OF 2016, TO REDESIGNATE  
24 THE CHAPTER AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 58,  
25 TITLE 33, IDAHO CODE, AS ENACTED BY SECTION 1, CHAPTER 192, LAWS OF 2016,  
26 TO REDESIGNATE THE CHAPTER, TO MAKE A CODIFIER'S CORRECTION, TO PROVIDE  
27 A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING  
28 SECTION 39-3133, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND  
29 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-3134, IDAHO CODE,  
30 TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS;  
31 AMENDING CHAPTER 93, TITLE 39, IDAHO CODE, AS ENACTED BY SECTION 1,  
32 CHAPTER 168, LAWS OF 2016, TO REDESIGNATE THE CHAPTER; AMENDING SECTION  
33 41-307, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SEC-  
34 TION 41-332, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AMENDING  
35 SECTION 41-342, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND  
36 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-343, IDAHO CODE,  
37 TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS;  
38 AMENDING SECTION 41-2803, IDAHO CODE, TO PROVIDE A CORRECT CODE REF-  
39 ERENCE; AMENDING SECTION 41-2804, IDAHO CODE, TO PROVIDE CORRECT CODE  
40 REFERENCES; AMENDING SECTION 41-3824, IDAHO CODE, TO PROVIDE CORRECT  
41 CODE REFERENCES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION  
42 41-4934, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SEC-  
43 TION 41-6104, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO  
44 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 50-2913, IDAHO CODE, TO  
45 MAKE A CODIFIER'S CORRECTION; AMENDING SECTION 55-115, IDAHO CODE, TO

1 MAKE A CODIFIER'S CORRECTION AND TO MAKE TECHNICAL CORRECTIONS; AMEND-  
 2 ING SECTION 61-313, IDAHO CODE, TO MAKE A CODIFIER'S CORRECTION AND TO  
 3 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-602D, IDAHO CODE, TO  
 4 PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS;  
 5 AMENDING SECTION 63-602GG, IDAHO CODE, TO PROVIDE A CORRECT CODE REFER-  
 6 ENCE; AMENDING SECTION 67-7702, IDAHO CODE, TO PROVIDE A CORRECT CODE  
 7 REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-7711,  
 8 IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL  
 9 CORRECTIONS; AMENDING SECTION 67-8903, IDAHO CODE, TO PROVIDE A CORRECT  
 10 CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION  
 11 74-107, IDAHO CODE, TO MAKE A CODIFIER'S CORRECTION, TO PROVIDE A COR-  
 12 RECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION.

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

14 SECTION 1. That Section 6-1601, Idaho Code, be, and the same is hereby  
 15 amended to read as follows:

16 6-1601. DEFINITIONS. As used in this act:

17 (1) "Charitable corporation or organization or charitable trust" means  
 18 a corporation or organization or charitable trust including any community  
 19 chest, fund, or foundation organized and operated exclusively for reli-  
 20 gious, charitable, scientific, testing for public safety, literary, or  
 21 educational purposes, or to foster national or international amateur sports  
 22 competition (but only if no part of its activities involve the provision of  
 23 athletic facilities or equipment), or for the prevention of cruelty to chil-  
 24 dren or animals, no part of the net earnings of which inures to the benefit of  
 25 any private shareholder or individual, no substantial part of the activities  
 26 of which is carrying on propaganda, or otherwise attempting, to influence  
 27 legislation.

28 (2) "Claimant" means any party to a civil action making a claim for re-  
 29 lief, legal or equitable, compensatory or noncompensatory.

30 (3) "Economic damages" means objectively verifiable monetary loss, in-  
 31 cluding, but not limited to, out-of-pocket expenses, loss of earnings, loss  
 32 of use of property, cost of replacement or repair, cost of obtaining sub-  
 33 stitute domestic services, loss of employment, medical expenses, or loss of  
 34 business or employment opportunities.

35 (4) "Future damages" means noneconomic damages and economic damages to  
 36 be incurred after entry of a judgment.

37 (5) "Noneconomic damages" means subjective, nonmonetary losses  
 38 including, but not limited to, pain, suffering, inconvenience, mental an-  
 39 guish, disability or disfigurement incurred by the injured party; emotional  
 40 distress; loss of society and companionship; loss of consortium; or destruc-  
 41 tion or impairment of the parent-child relationship.

42 (6) "Nonprofit corporation or organization" means a charitable corpo-  
 43 ration or organization or charitable trust; any other corporation organized  
 44 or existing under chapter 30, title 30, Idaho Code, or an equivalent provi-  
 45 sion of the law of another state; or an unincorporated association; which  
 46 corporation, organization, charitable trust or unincorporated association  
 47 is organized and existing exclusively for nonprofit purposes, and which:

1 (a) Either is tax exempt under section 501(c)(3) of the Internal Rev-  
2 enue Code or regularly bestows benefits to the community at large, and

3 (b) No part of the net income of which is distributable to its members,  
4 directors or officers.

5 (7) "Personal injury" means a physical injury, sickness or death suf-  
6 fered by an individual.

7 (8) "Property damage" means loss in value or in use of real or personal  
8 property, where such loss arises from physical damage to or destruction of  
9 such property.

10 (9) "Punitive damages" means damages awarded to a claimant, over and  
11 above what will compensate the claimant for actual personal injury and prop-  
12 erty damage, to serve the public policies of punishing a defendant for outra-  
13 geous conduct and of deterring future like conduct.

14 SECTION 2. That Section 16-1506, Idaho Code, be, and the same is hereby  
15 amended to read as follows:

16 16-1506. PROCEEDINGS ON ADOPTION. (1) Proceedings to adopt a child  
17 shall be commenced by the filing of a petition together with a copy thereof.  
18 The petition shall be initiated by the person or persons proposing to adopt  
19 the child and shall be filed with the district court of the county in which  
20 said person or persons reside. If the adoption arises from a child protec-  
21 tive act case, the petition shall be filed in the court having jurisdiction  
22 over the child protective act case unless that court relinquishes jurisdic-  
23 tion over the adoption proceeding. The petitioners shall have resided and  
24 maintained a dwelling within the state of Idaho for at least six (6) consec-  
25 utive months prior to the filing of a petition. The petition shall set forth  
26 the name and address of the petitioner or petitioners, the name of the child  
27 proposed to be adopted and the name by which the person to be adopted shall be  
28 known if and when adopted, the degree of relationship of the child, if any,  
29 to the petitioner or petitioners and the names of any person or agency whose  
30 consent to said adoption is necessary. At the time fixed for hearing such  
31 petition, the person adopting a child, and the child adopted, and the spouse  
32 of the petitioner if a natural parent of the child, must appear before the  
33 court of the county wherein the petition was filed. The petitioner shall at  
34 such time execute an agreement to the effect that the child shall be adopted  
35 and treated in all respects as his own lawful child should be treated.

36 (2) If the adoption arises from a child protective act case, then, in  
37 addition to the petition filed pursuant to subsection (1) of this section,  
38 the department of health and welfare shall file the permanency plan prepared  
39 pursuant to section 16-1620 or 16-1622, Idaho Code, associated with the  
40 child protective act case. If the court determines that the person proposing  
41 to adopt the child is not the proposed adoptive parent named in the perma-  
42 nency plan, then the judge shall stay the proceeding pending the department  
43 preparing and filing an amended permanency plan pursuant to section 16-1620  
44 or 16-1622, Idaho Code, and the approval of the amended permanency plan by  
45 the judge presiding over the child protective act proceeding.

46 (3) Any person or persons whose consent is required shall execute such  
47 consent in writing, in a form consistent with the provisions of section  
48 16-2005(4), Idaho Code, which consent being filed in the court where the  
49 application is made, shall be deemed a sufficient appearance on the part of

1 such person or persons. If any adoptive parent, or a person not a minor being  
2 adopted by a resident adult under the provisions of section 16-1501, Idaho  
3 Code, is a member of the armed services and is unable to attend the hearing,  
4 his appearance and testimony shall be received by means of deposition, which  
5 shall be filed in the court at the time of the hearing.

6 (4) Prior to the placement for adoption of any child in the home of  
7 prospective adoptive parents, it shall be required that a thorough social  
8 investigation of the prospective adoptive family and all of its members,  
9 consistent with the rules regarding such investigations promulgated by the  
10 department of health and welfare, shall be completed and that a positive  
11 recommendation for adoptive placement shall have been made. The social in-  
12 vestigation may be performed by any individual who meets the requirements of  
13 the law. A copy of the study must be submitted to the department and the de-  
14 partment may impose a reasonable fee, not to exceed fifty dollars (\$50.00),  
15 for oversight of such privately conducted studies. If the prospective adop-  
16 tive parent has a disability as defined in this chapter, the prospective  
17 adoptive parent shall have the right, as a part of the social study, to pro-  
18 vide information regarding the manner in which the use of adaptive equipment  
19 or supportive services will enable the parent to carry out the responsibili-  
20 ties of parenting the child. The person performing the social investigation  
21 shall advise the prospective adoptive parent of such right and shall con-  
22 sider all such information in any findings or recommendations. The social  
23 investigation of any prospective adoptive parent with a disability shall  
24 be conducted by, or with the assistance of, an individual with expertise in  
25 the use of such equipment and services. Nothing in this chapter shall be  
26 construed to create any new or additional obligation on state or local gov-  
27 ernments to purchase or provide adaptive equipment or supportive services  
28 for parents with disabilities. In those instances where the prospective  
29 adoptive parent is married to the birth parent or is the grandparent of the  
30 child to be adopted, such social investigation shall be completed with re-  
31 gard to the prospective adoptive parent only upon order of the court. In  
32 exigent circumstances where the prospective adoptive parents are determined  
33 by the court to have been unable to complete a social investigation of the  
34 family with a positive recommendation prior to the time the child is placed  
35 in the home, the child shall remain in the home unless the court determines  
36 the best interests of the child are served by other placement. If exigent  
37 circumstances exist, a social investigation shall be initiated within five  
38 (5) days of placement. Once initiated, all studies shall be completed within  
39 sixty (60) days. Upon the filing of a petition to adopt a minor child by a  
40 person unrelated to the child or unmarried to a natural parent of the child  
41 and at the discretion of the court upon the filing of any other petition for  
42 adoption, a copy of such petition, together with a statement containing the  
43 full names and permanent addresses of the child and the petitioners, shall  
44 be served by the court receiving the petition within five (5) days on the di-  
45 rector of the department of health and welfare by registered mail or personal  
46 service. If no private investigation is conducted, it shall then be the duty  
47 of the said director, through the personnel of the department or through  
48 such qualified child-placing children's adoption agency incorporated under  
49 chapter 30, title 30, Idaho Code, as the director may designate, to verify  
50 the allegations of the petition, and as soon as possible not exceeding thirty

1 (30) days after service of the petition on the director to make a thorough  
2 investigation of the matter to include in all cases information as to the  
3 alleged date and place of birth and as to parentage of the child to be adopted  
4 as well as the source of all such information and report his findings in writ-  
5 ing to the court. The investigative report shall include reasonably known  
6 or available medical and genetic information regarding both natural parents  
7 and sources of such information as well as reasonably known or available  
8 providers of medical care and services to the natural parents. A copy of all  
9 medical and genetic information compiled in the investigation shall be made  
10 available to the adopting family by the department or other investigating  
11 children's adoption agency prior to entry of the final order of adoption.  
12 The petition, statement and all other papers, records or files relating to  
13 the adoption, including the preplacement investigation and recommendation,  
14 shall be returned to the court with the investigative report. The department  
15 of health and welfare or other children's adoption agency may require the  
16 petitioner to pay all or any part of the costs of the investigation. If the  
17 report disapproves of the adoption of the child, motion may be made to the  
18 court to dismiss the petition.

19 (5) Proceedings for termination of parent-child relationship in accor-  
20 dance with chapter 20, title 16, Idaho Code, and proceedings for adoption may  
21 be consolidated and determined at one (1) hearing provided that all of the  
22 requirements of this chapter as well as chapter 20, title 16, Idaho Code, be  
23 fully complied with. Nothing in either chapter shall be construed as limit-  
24 ing the initiation of any petition for approval of a verified financial plan  
25 for adoption expenses pursuant to section 18-1511, Idaho Code, prior to the  
26 birth of the child which is the subject of any adoption proceeding. In all  
27 disputed matters under this chapter or chapter 20, title 16, Idaho Code, the  
28 paramount criterion for consideration and determination by the court shall  
29 be the best interests of the child.

30 (6) Proceedings for the adoption of an adult shall be as provided in  
31 subsection (1) of this section and any consents required shall be executed  
32 as provided in subsection (3) of this section. Upon a finding by the court  
33 that the consent of all persons for whom consent is required has been given  
34 and that the requirements of section 16-1501, Idaho Code, have been proven  
35 to the satisfaction of the court, the court shall enter an order granting the  
36 adoption. In cases where the adult proposed to be adopted is incapacitated  
37 or disabled, the court may require that an investigation be performed. The  
38 form and extent of the investigation to be undertaken may be as provided in  
39 subsection (4) of this section, or as otherwise ordered by the court. If an  
40 investigation is performed, the court must review and approve the findings  
41 of the investigation before issuing an order approving the adoption.

42 SECTION 3. That Section 16-1602, Idaho Code, be, and the same is hereby  
43 amended to read as follows:

44 16-1602. DEFINITIONS. For purposes of this chapter:

45 (1) "Abused" means any case in which a child has been the victim of:

46 (a) Conduct or omission resulting in skin bruising, bleeding, malnu-  
47 trition, burns, fracture of any bone, subdural hematoma, soft tissue  
48 swelling, failure to thrive or death, and such condition or death is not  
49 justifiably explained, or where the history given concerning such con-

1           dition or death is at variance with the degree or type of such condition  
2           or death, or the circumstances indicate that such condition or death may  
3           not be the product of an accidental occurrence; or

4           (b) Sexual conduct, including rape, molestation, incest, prostitu-  
5           tion, obscene or pornographic photographing, filming or depiction for  
6           commercial purposes, or other similar forms of sexual exploitation  
7           harming or threatening the child's health or welfare or mental injury to  
8           the child.

9           (2) "Abandoned" means the failure of the parent to maintain a normal  
10          parental relationship with his child including, but not limited to, reason-  
11          able support or regular personal contact. Failure to maintain this rela-  
12          tionship without just cause for a period of one (1) year shall constitute  
13          prima facie evidence of abandonment.

14          (3) "Adaptive equipment" means any piece of equipment or any item that  
15          is used to increase, maintain or improve the parenting capabilities of a par-  
16          ent with a disability.

17          (4) "Adjudicatory hearing" means a hearing to determine:

18          (a) Whether the child comes under the jurisdiction of the court pur-  
19          suant to the provisions of this chapter;

20          (b) Whether continuation of the child in the home would be contrary to  
21          the child's welfare and whether the best interest of the child requires  
22          protective supervision or vesting legal custody of the child in an au-  
23          thorized agency.

24          (5) "Age of developmentally appropriate" means:

25          (a) Activities that are generally accepted as suitable for children of  
26          the same chronological age or level of maturity or that are determined  
27          to be developmentally appropriate for a child, based on the development  
28          of cognitive, emotional, physical and behavioral capacities that are  
29          typical for an age or age group; and

30          (b) In the case of a specific child, activities or items that are suit-  
31          able for the child based on the developmental stages attained by the  
32          child with respect to the cognitive, emotional, physical and behavioral  
33          capacities of the child.

34          (6) "Aggravated circumstances" includes, but is not limited to:

35          (a) Circumstances in which the parent has engaged in any of the follow-  
36          ing:

37               (i) Abandonment, chronic abuse or chronic neglect of the child.  
38               Chronic neglect or chronic abuse of a child shall consist of abuse  
39               or neglect that is so extreme or repetitious as to indicate that  
40               return of the child to the home would result in unacceptable risk  
41               to the health and welfare of the child.

42               (ii) Sexual abuse against a child of the parent. Sexual abuse,  
43               for the purposes of this section, includes any conduct described  
44               in section 18-1506, 18-1506A, 18-1507, 18-1508, 18-1508A, 18-6101  
45               or 18-6608, Idaho Code.

46               (iii) Torture of a child; any conduct described in the code sec-  
47               tions listed in section 18-8303(1), Idaho Code; battery or an  
48               injury to a child that results in serious or great bodily in-  
49               jury to a child; voluntary manslaughter of a child, or aiding or  
50               abetting such voluntary manslaughter, soliciting such voluntary

- 1           manslaughter or attempting or conspiring to commit such voluntary  
2           manslaughter;
- 3           (b) The parent has committed murder, aided or abetted a murder, so-  
4           solicited a murder or attempted or conspired to commit murder; or
- 5           (c) The parental rights of the parent to another child have been termi-  
6           nated involuntarily.
- 7           (7) "Authorized agency" means the department, a local agency, a person,  
8           an organization, corporation, benevolent society or association licensed  
9           or approved by the department or the court to receive children for control,  
10          care, maintenance or placement.
- 11          (8) "Caregiver" means a foster parent with whom a child in foster care  
12          has been placed or a designated official for a child care institution in  
13          which a child in foster care has been placed.
- 14          (9) "Case plan hearing" means a hearing to approve, modify or reject the  
15          case plan as provided in section 16-1621, Idaho Code.
- 16          (10) "Child" means an individual who is under the age of eighteen (18)  
17          years.
- 18          (11) "Child advocacy center" or "CAC" means an organization that ad-  
19          heres to national best practice standards established by the national  
20          membership and accrediting body for children's advocacy centers and that  
21          promotes a comprehensive and coordinated multidisciplinary team response to  
22          allegations of child abuse by maintaining a child-friendly facility at which  
23          appropriate services are provided. These services may include forensic in-  
24          terviews, forensic medical examinations, mental health services and other  
25          related victim services.
- 26          (12) "Circumstances of the child" includes, but is not limited to, the  
27          joint legal custody or joint physical custody of the child.
- 28          (13) "Commit" means to transfer legal and physical custody.
- 29          (14) "Concurrent planning" means a planning model that prepares for and  
30          implements different outcomes at the same time.
- 31          (15) "Court" means district court or magistrate's division thereof, or  
32          if the context requires, a magistrate or judge thereof.
- 33          (16) "Custodian" means a person, other than a parent or legal guardian,  
34          to whom legal or joint legal custody of the child has been given by court or-  
35          der.
- 36          (17) "Department" means the department of health and welfare and its au-  
37          thorized representatives.
- 38          (18) "Disability" means, with respect to an individual, any mental or  
39          physical impairment which substantially limits one (1) or more major life  
40          activity of the individual including, but not limited to, self-care, man-  
41          ual tasks, walking, seeing, hearing, speaking, learning or working, or a  
42          record of such an impairment, or being regarded as having such an impairment.  
43          Disability shall not include transvestism, transsexualism, pedophilia,  
44          exhibitionism, voyeurism, other sexual behavior disorders, or substance use  
45          disorders, compulsive gambling, kleptomania or pyromania. Sexual prefer-  
46          ence or orientation is not considered an impairment or disability. Whether  
47          an impairment substantially limits a major life activity shall be determined  
48          without consideration of the effect of corrective or mitigating measures  
49          used to reduce the effects of the impairment.

1 (19) "Family or household member" shall have the same meaning as in sec-  
2 tion 39-6303(6), Idaho Code.

3 (20) "Foster care" means twenty-four (24) hour substitute parental care  
4 for children placed away from their parents or guardians by persons who may  
5 or may not be related to the children and for whom the state agency has place-  
6 ment and care responsibility.

7 (21) "Foster parent" means a person or persons licensed to provide fos-  
8 ter care.

9 (22) "Grant administrator" means the supreme court or any organization  
10 or agency as may be designated by the supreme court in accordance with such  
11 procedures as may be adopted by the supreme court. The grant administrator  
12 shall administer funds from the guardian ad litem account in accordance with  
13 the provisions of this chapter.

14 (23) "Guardian ad litem" means a person appointed by the court pursuant  
15 to a guardian ad litem volunteer program to act as special advocate for a  
16 child under this chapter.

17 (24) "Guardian ad litem coordinator" means a person or entity receiving  
18 moneys from the grant administrator for the purpose of carrying out any of  
19 the duties set forth in section 16-1632, Idaho Code.

20 (25) "Guardian ad litem program" means the program to recruit, train and  
21 coordinate volunteer persons to serve as guardians ad litem for abused, ne-  
22 glected or abandoned children.

23 (26) "Homeless," as used in this chapter, shall mean that the child is  
24 without adequate shelter or other living facilities, and the lack of such  
25 shelter or other living facilities poses a threat to the health, safety or  
26 well-being of the child.

27 (27) "Idaho network of children's advocacy centers" means an organiza-  
28 tion that provides education and technical assistance to child advocacy cen-  
29 ters and to interagency multidisciplinary teams developed pursuant to sec-  
30 tion 16-1617, Idaho Code.

31 (28) "Law enforcement agency" means a city police department, the pros-  
32 ecuting attorney of any county, state law enforcement officers, or the of-  
33 fice of a sheriff of any county.

34 (29) "Legal custody" means a relationship created by court order, which  
35 vests in a custodian the following rights and responsibilities:

36 (a) To have physical custody and control of the child, and to determine  
37 where and with whom the child shall live.

38 (b) To supply the child with food, clothing, shelter and incidental ne-  
39 cessities.

40 (c) To provide the child with care, education and discipline.

41 (d) To authorize ordinary medical, dental, psychiatric, psychologi-  
42 cal, or other remedial care and treatment for the child, including care  
43 and treatment in a facility with a program of services for children, and  
44 and to authorize surgery if the surgery is deemed by two (2) physicians  
45 licensed to practice in this state to be necessary for the child.

46 (e) Where the parents share legal custody, the custodian may be vested  
47 with the custody previously held by either or both parents.

48 (30) "Mental injury" means a substantial impairment in the intellectual  
49 or psychological ability of a child to function within a normal range of per-  
50 formance and/or behavior, for short or long terms.



1 (31) "Neglected" means a child:

2 (a) Who is without proper parental care and control, or subsistence,  
3 medical or other care or control necessary for his well-being because of  
4 the conduct or omission of his parents, guardian or other custodian or  
5 their neglect or refusal to provide them; however, no child whose parent  
6 or guardian chooses for such child treatment by prayers through spiri-  
7 tual means alone in lieu of medical treatment shall be deemed for that  
8 reason alone to be neglected or lack parental care necessary for his  
9 health and well-being, but this subsection shall not prevent the court  
10 from acting pursuant to section 16-1627, Idaho Code; or

11 (b) Whose parents, guardian or other custodian are unable to discharge  
12 their responsibilities to and for the child and, as a result of such  
13 inability, the child lacks the parental care necessary for his health,  
14 safety or well-being; or

15 (c) Who has been placed for care or adoption in violation of law; or

16 (d) Who is without proper education because of the failure to comply  
17 with section 33-202, Idaho Code.

18 (32) "Permanency hearing" means a hearing to review, approve, reject or  
19 modify the permanency plan of the department, and review reasonable efforts  
20 in accomplishing the permanency plan.

21 (33) "Permanency plan" means a plan for a continuous residence and main-  
22 tenance of nurturing relationships during the child's minority.

23 (34) "Protective order" means an order issued by the court in a child  
24 protection case, prior to the adjudicatory hearing, to enable the child to  
25 remain in the home pursuant to section 16-1615(5)~~(f)~~, Idaho Code. Such an  
26 order shall be in the same form and have the same effect as a domestic vio-  
27 lence protection order issued pursuant to chapter 63, title 39, Idaho Code.  
28 A protective order shall be for a period not to exceed three (3) months unless  
29 otherwise stated in the order.

30 (35) "Protective supervision" is a legal status created by court order  
31 in a child protective case whereby the child is in the legal custody of his or  
32 her parent(s), guardian(s) or other legal custodian(s), subject to supervi-  
33 sion by the department.

34 (36) "Psychotropic medication" means a drug prescribed to affect psy-  
35 chological functioning, perception, behavior or mood. Psychotropic medi-  
36 cations include, but are not limited to, antidepressants, mood stabilizers,  
37 antipsychotics, ~~anti-anxiety~~ antianxiety medications, sedatives and stimu-  
38 lants.

39 (37) "Reasonable and prudent parent standard" means the standard of  
40 care characterized by careful and sensible parental decisions that main-  
41 tain the health, safety and best interests of a child while simultaneously  
42 encouraging the emotional and developmental growth of the child, that a  
43 caregiver shall use when determining whether to allow a child in foster care  
44 under the responsibility of the state to participate in extracurricular,  
45 enrichment, cultural or social activities.

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

49 (39) "Residual parental rights and responsibilities" means those  
50 rights and responsibilities remaining with the parents after the transfer of

1 legal custody including, but not necessarily limited to, the right of visi-  
2 tation, the right to consent to adoption, the right to determine religious  
3 affiliation, the right to family counseling when beneficial, and the respon-  
4 sibility for support.

5 (40) "Shelter care" means places designated by the department for tem-  
6 porary care of children pending court disposition or placement.

7 (41) "Supportive services," as used in this chapter, shall mean ser-  
8 vices ~~which~~ that assist parents with a disability to compensate for those  
9 aspects of their disability ~~which~~ that affect their ability to care for their  
10 child and ~~which~~ that will enable them to discharge their parental responsi-  
11 bilities. The term includes specialized or adapted training, evaluations  
12 or assistance with effectively using adaptive equipment and accommodations  
13 ~~which~~ that allow parents with a disability to benefit from other services  
14 including, but not limited to, Braille texts or sign language interpreters.

15 SECTION 4. That Section 16-1620, Idaho Code, be, and the same is hereby  
16 amended to read as follows:

17 16-1620. FINDING OF AGGRAVATED CIRCUMSTANCES -- PERMANENCY PLAN --  
18 HEARING. (1) After a judicial determination that reasonable efforts to re-  
19 turn the child to his home are not required because aggravated circumstances  
20 were found to be present, the court shall hold a permanency hearing within  
21 thirty (30) days after the finding, and every twelve (12) months thereafter  
22 for as long as the court has jurisdiction. The department shall prepare a  
23 permanency plan and file the permanency plan with the court at least five (5)  
24 days prior to the permanency hearing. If the permanency plan has a goal of  
25 termination of parental rights and adoption, the department shall file the  
26 petition to terminate as required in section 16-1624(2), Idaho Code. Copies  
27 of the permanency plan shall be delivered to the parents and other legal  
28 guardians, prosecuting attorney or deputy attorney general, the guardian ad  
29 litem and attorney for the child.

30 (2) The permanency plan shall have a permanency goal of termination of  
31 parental rights and adoption, guardianship or, for youth age sixteen (16)  
32 years and older only, another planned permanent living arrangement and shall  
33 set forth the reasonable efforts necessary to finalize the permanency goal.

34 (3) The permanency plan shall also:

35 (a) Identify the services to be provided to the child, including ser-  
36 vices to identify and meet any educational, emotional, physical or de-  
37 velopmental needs the child may have, to assist the child in adjusting  
38 to the placement or to ensure the stability of the placement;

39 (b) Address all options for permanent placement of the child, including  
40 consideration of options for in-state and out-of-state placement of the  
41 child;

42 (c) Address the advantages and disadvantages of each option and include  
43 a recommendation as to which option is in the child's best interest;

44 (d) Specifically identify the actions necessary to implement the rec-  
45 ommended option;

46 (e) Specifically set forth a schedule for accomplishing the actions  
47 necessary to implement the permanency goal;

48 (f) Address the options for maintaining the child's connection to the  
49 community, including individuals with a significant relationship to

1 the child, and organizations or community activities with which the  
2 child has a significant connection. This shall also include the efforts  
3 made to ensure educational stability for the child, the efforts to keep  
4 the child in the school in which the child is enrolled at the time of  
5 placement or the reasons why remaining in that school is not in the best  
6 interests of the child;

7 (g) Document that siblings were placed together, or if siblings were  
8 not placed together, document the efforts made to place siblings to-  
9 gether, the reasons why siblings were not placed together, and a plan  
10 for ensuring frequent visitation or ongoing interaction between the  
11 siblings, unless visitation or ongoing interaction would be contrary to  
12 the safety or well-being of one (1) or more of the siblings;

13 (h) For youth age fourteen (14) years and older:

14 (i) Identify the services needed to assist the youth to make the  
15 transition from foster care to successful adulthood; and

16 (ii) Document the youth's rights in regard to his education,  
17 health, visitation, court participation and receipt of an annual  
18 credit report, including a signed acknowledgment by the depart-  
19 ment that the youth was provided with a written copy of these  
20 rights and that the rights were explained to the youth in an age or  
21 developmentally appropriate manner;

22 (i) For youth age sixteen (16) years and older with a proposed perma-  
23 nency goal of another planned permanent living arrangement, document:

24 (i) The intensive, ongoing, and as of the date of the hearing,  
25 unsuccessful efforts made to place the youth with a parent, in an  
26 adoptive placement, in a guardianship, or in the legal custody of  
27 the department in a placement with a fit and willing relative, in-  
28 cluding an adult sibling;

29 (ii) Why another planned permanent living arrangement is the best  
30 permanency plan for the youth and compelling reasons why, as of the  
31 date of the permanency hearing, it would not be in the best inter-  
32 est of the youth to be placed permanently with a parent, in an adop-  
33 tive placement, in a guardianship, or in the legal custody of the  
34 department in a placement with a fit and willing relative, includ-  
35 ing an adult sibling;

36 (iii) The steps that the department has taken to ensure that the  
37 youth's foster parents or child care institution are following the  
38 reasonable and prudent parent standard when determining whether  
39 to allow the youth in their care to participate in extracurricu-  
40 lar, enrichment, cultural and social activities; and

41 (iv) The opportunities provided to the youth to engage in age or  
42 developmentally appropriate activities; and

43 (j) If there is reason to believe the child is an Indian child and there  
44 has been no final determination as to the child's status as an Indian  
45 child, document:

46 (i) The efforts made to determine whether the child is an Indian  
47 child; and

48 (ii) The department's efforts to work with all tribes of which the  
49 child may be a member to verify whether the child is a member or el-  
50 igible for membership; and

1           (hk) Identify the prospective adoptive parents, if known; if the  
2 prospective adoptive parents are not known, the department shall amend  
3 the plan to name the proposed adoptive parents as soon as such persons  
4 become known.

5           (4) The court shall hold a permanency hearing to determine whether the  
6 best interest of the child is served by adopting, rejecting or modifying the  
7 permanency plan proposed by the department. At each permanency hearing:

8           (a) For youth age twelve (12) years and older, unless good cause is  
9 shown, the court shall ask the youth about his desired permanency out-  
10 come and consult with the youth about the youth's current permanency  
11 plan;

12           (b) If there is reason to believe that the child is an Indian child and  
13 there has not been a final determination regarding the child's status as  
14 an Indian child, the court shall:

15               (i) Inquire about the efforts that have been made since the last  
16 hearing to determine whether the child is an Indian child; and

17               (ii) Determine that the department is using active efforts to work  
18 with all tribes of which the child may be a member to verify whether  
19 the child is a member or eligible for membership.

20           (c) If the child is being treated with psychotropic medication, these  
21 additional requirements shall apply:

22               (i) The department shall report to the court the medication and  
23 dosage prescribed for the child and the medical professional who  
24 prescribed the medication; and

25               (ii) The court shall inquire as to, and may make any additional  
26 inquiry relevant to, the use of psychotropic medication.

27           (5) Notice of the permanency hearing shall be provided to the parents  
28 and other legal guardians, prosecuting attorney or deputy attorney general,  
29 guardian ad litem, attorney for the child, the department and foster par-  
30 ents; provided however, that foster parents are not thereby made parties to  
31 the child protective act action.

32           (6) The permanency plan as approved by the court shall be entered into  
33 the record as an order of the court. The order may include interim and fi-  
34 nal deadlines for implementing the permanency plan and finalizing the perma-  
35 nency goal.

36           (7) For youth with a proposed or current permanency goal of another  
37 planned permanent living arrangement, at each permanency hearing the court  
38 shall make written, case-specific findings that as of the date of the perma-  
39 nency hearing, another planned permanent living arrangement is the best per-  
40 manency plan for the youth and that there are compelling reasons why it is  
41 not in the youth's best interest to be placed permanently with a parent, in  
42 an adoptive placement, in a guardianship, or in the legal custody of the de-  
43 partment in a placement with a fit and willing relative, including an adult  
44 sibling.

45           (8) The court may authorize the department to suspend further efforts  
46 to reunify the child with the child's parent, pending further order of the  
47 court, when a petition or other motion is filed in a child protection pro-  
48 ceeding seeking a determination of the court that aggravated circumstances  
49 were present.

1 SECTION 5. That Section 16-1621, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 16-1621. CASE PLAN HEARING -- NO FINDING OF AGGRAVATED CIRCUM-  
4 STANCES. (1) In every case in which the child is determined to be within  
5 the jurisdiction of the court, and there is no judicial determination that  
6 aggravated circumstances were present, the department shall prepare a writ-  
7 ten case plan, including cases in which the parent(s) is incarcerated. The  
8 court shall schedule a case plan hearing to be held within thirty (30) days  
9 after the adjudicatory hearing. The case plan shall be filed with the court  
10 no later than five (5) days prior to the case plan hearing. Copies of the  
11 case plan shall be delivered to the parents and other legal guardians, the  
12 prosecuting attorney or deputy attorney general, the guardian ad litem and  
13 attorney for the child.

14 (a) The court shall hold a case plan hearing to determine whether the  
15 best interest of the child is served by adopting, rejecting or modifying  
16 the case plan proposed by the department.

17 (b) If there is reason to believe that the child is an Indian child and  
18 there has not been a final determination regarding the child's status as  
19 an Indian child, the court shall:

20 (i) Inquire about the efforts that have been made since the last  
21 hearing to determine whether the child is an Indian child; and

22 (ii) Determine that the department is using active efforts to work  
23 with all tribes of which the child may be a member to verify whether  
24 the child is a member or eligible for membership.

25 (c) If the child is being treated with psychotropic medication, the  
26 court shall inquire as to, and may make any additional inquiry relevant  
27 to, the use of psychotropic medication.

28 (2) Notice of the case plan hearing shall be provided to the parents,  
29 and other legal guardians, the prosecuting attorney or deputy attorney gen-  
30 eral, guardian ad litem, attorney for the child, the department and foster  
31 parents. Although foster parents are provided notice of this hearing, they  
32 are not parties to the child protective act action.

33 (3) If the child is placed in the legal custody of the department, the  
34 case plan filed by the department shall set forth reasonable efforts that  
35 will be made to make it possible for the child to return home. The case plan  
36 shall also:

37 (a) Identify the services to be provided to the child, including ser-  
38 vices to identify and meet any educational, emotional, physical or de-  
39 velopmental needs the child may have, and to assist the child in adjust-  
40 ing to the placement or to ensure the stability of the placement. For  
41 youth age fourteen (14) years and older:

42 (i) Identify the services needed to assist the youth in making the  
43 transition to successful adulthood; and

44 (ii) Document the youth's rights in regard to his education and  
45 health, visitation, court participation and receipt of an annual  
46 credit report, including a signed acknowledgment by the depart-  
47 ment that the youth was provided with a written copy of these  
48 rights and that the rights were explained to the youth in an age or  
49 developmentally appropriate manner;

1 (b) Address the options for maintaining the child's connection to the  
2 community:

3 (i) Include connections to individuals with a significant rela-  
4 tionship to the child, and organizations or community activities  
5 with which the child has a significant connection;

6 (ii) Ensure educational stability for the child, including the  
7 efforts to keep the child in the school in which the child is en-  
8 rolled at the time of placement or the reasons why remaining in  
9 that school is not in the best interests of the child;

10 (iii) Include a visitation plan and identify the need for supervi-  
11 sion of visitation and child support;

12 (iv) Document either that siblings were placed together, or, if  
13 siblings were not placed together, document the efforts made to  
14 place the siblings together, the reasons why siblings were not  
15 placed together and a plan for ensuring frequent visitation or  
16 other ongoing interaction among siblings, unless visitation or  
17 ongoing interaction would be contrary to the safety or well-being  
18 of one (1) or more of the siblings; and

19 (v) If there is reason to believe the child is an Indian child and  
20 there has been no final determination as to the child's status as  
21 an Indian child, document:

22 1. The efforts made to determine whether the child is an In-  
23 dian child; and

24 2. The department's efforts to work with all tribes of which  
25 the child may be a member to verify whether the child is a  
26 member or eligible for membership;

27 (c) Include a goal of reunification and a plan for achieving that  
28 goal. The reunification plan shall identify all issues that need to  
29 be addressed before the child can safely be returned home without de-  
30 partment supervision. The court may specifically identify issues to  
31 be addressed by the plan. The reunification plan shall specifically  
32 identify the tasks to be completed by the department, each parent or  
33 others to address each issue, including services to be made available  
34 by the department to the parents and in which the parents are required  
35 to participate, and deadlines for completion of each task. The case  
36 plan shall state with specificity the role of the department toward each  
37 parent. When appropriate, the reunification plan should identify terms  
38 for visitation, supervision of visitation and child support;

39 (d) Include a concurrent permanency goal and a plan for achieving that  
40 goal. The concurrent permanency goal may be one (1) of the following:  
41 termination of parental rights and adoption, guardianship or, for youth  
42 age sixteen (16) years or older only, another planned permanent living  
43 arrangement. The concurrent plan shall:

44 (i) Address all options for permanent placement of the child,  
45 including consideration of options for in-state and out-of-state  
46 placement of the child;

47 (ii) Address the advantages and disadvantages of each option and  
48 include a recommendation as to which option is in the child's best  
49 interest;

1 (iii) Specifically identify the actions necessary to implement  
2 the recommended option;

3 (iv) Specifically set forth a schedule for accomplishing the ac-  
4 tions necessary to implement the concurrent permanency goal;

5 (v) Address options for maintaining the child's connection to  
6 the community, including individuals with a significant relation-  
7 ship to the child, and organizations or community activities with  
8 which the child has a significant connection;

9 (vi) Identify the names of the proposed adoptive parents when  
10 known if the permanency goal is termination of parental rights and  
11 adoption;

12 (vii) In the case of a child who has attained the age of fourteen  
13 (14) years, include the services needed to assist the child to make  
14 the transition from foster care to successful adulthood;

15 (viii) For youth with a proposed permanency goal of another perma-  
16 nent planned living arrangement, document:

17 1. The intensive, ongoing, and, as of the date of the hear-  
18 ing, unsuccessful efforts made to place the youth with a par-  
19 ent, in an adoptive placement, in a guardianship, or in the  
20 legal custody of the department in a placement with a fit and  
21 willing relative, including an adult sibling;

22 2. Why another planned permanent living arrangement is the  
23 best permanency goal for the youth and a compelling reason  
24 why, as of the date of the case plan hearing, it would not be  
25 in the best interest of the child to be placed permanently  
26 with a parent, in an adoptive placement, in a guardianship,  
27 or in the legal custody of the department in a placement with  
28 a fit and willing relative, including an adult sibling;

29 3. The steps taken by the department to ensure that the  
30 youth's foster parents or child care institution are follow-  
31 ing the reasonable and prudent parent standard when making  
32 decisions about whether the youth can engage in extracurric-  
33 ular, enrichment, cultural and social activities; and

34 4. The opportunities provided to the youth to regularly en-  
35 gage in age or developmentally appropriate activities; and

36 (viii) Identify further investigation necessary to identify or  
37 assess other options for permanent placement, to identify actions  
38 necessary to implement the recommended placement or to identify  
39 options for maintaining the child's significant connections.

40 (4) If the child has been placed under protective supervision of the de-  
41 partment, the case plan, filed by the department, shall:

42 (a) Identify the services to be provided to the child, including ser-  
43 vices to identify and meet any educational, emotional, physical or de-  
44 velopmental needs the child may have, and to assist the child in adjust-  
45 ing to the placement or to ensure the stability of the placement. For  
46 youth age fourteen (14) years and older, identify the services needed  
47 to assist the youth in making the transition to successful adulthood and  
48 document the youth's rights in regard to his education and health, vis-  
49 itation, court participation and receipt of an annual credit report,  
50 including a signed acknowledgment by the department that the youth was

1 provided with a written copy of his rights and that the rights were ex-  
2 plained to the youth in an age or developmentally appropriate manner.  
3 The plan shall also address options for maintaining the child's connec-  
4 tion to the community, including individuals with a significant rela-  
5 tionship to the child, and organizations or community activities with  
6 which the child has a significant connection;

7 (b) Identify all issues that need to be addressed to allow the child to  
8 remain at home without department supervision. The court may specifi-  
9 cally identify issues to be addressed by the plan. The case plan shall  
10 specifically identify the tasks to be completed by the department, the  
11 parents or others to address each issue, including services to be made  
12 available by the department to the parents and in which the parents are  
13 required to participate, and deadlines for completion of each task. The  
14 plan shall state with specificity the role of the department toward each  
15 parent.

16 (5) The case plan, as approved by the court, shall be entered into the  
17 record as an order of the court. The order may include interim and final  
18 deadlines for implementing the case plan and finalizing the permanency goal.  
19 The court's order shall provide that reasonable efforts shall be made to re-  
20 unify the family in a timely manner in accordance with the case plan. Unless  
21 the child has been placed under the protective supervision of the depart-  
22 ment, the court's order shall also require the department to simultaneously  
23 take steps to accomplish the goal of reunification and the concurrent perma-  
24 nency goal.

25 SECTION 6. That 16-1644, Idaho Code, as enacted by Section 7, Chapter  
26 347, Laws of 2016, be, and the same is hereby amended to read as follows:

27 16-1644<sup>5</sup>. EXEMPTION. Notwithstanding any other provision of law,  
28 nothing in this chapter modifies or supersedes the requirements of the In-  
29 dian child welfare act of 1978, 25 U.S.C. 1901, et seq.

30 SECTION 7. That 16-1644, Idaho Code, as enacted by Section 1, Chapter  
31 284, Laws of 2016, be, and the same is hereby amended to read as follows:

32 16-1644<sup>6</sup>. STATE DEPARTMENT OF HEALTH AND WELFARE ANNUAL REPORT. The  
33 state department of health and welfare shall submit an annual report regard-  
34 ing the foster care program to the germane standing committees of the legis-  
35 lature no later than ten (10) days following the start of each regular ses-  
36 sion. On or before February 15 of each year, the state department of health  
37 and welfare shall appear before the germane standing committees to present  
38 the report. Such report shall include, but need not be limited to, the num-  
39 ber of children that are in the department's legal custody pursuant to this  
40 chapter, the number of such children who have been placed in foster care,  
41 how many times such children have been moved to different foster care homes  
42 and the reasons for such moves, best practices in foster care, goals to im-  
43 prove the foster care system in Idaho to ensure best practices are adhered  
44 to, a description of progress made with regard to the previous year's goals  
45 to improve the foster care system and any other information relating to fos-  
46 ter care that the legislature requests. If a member of the legislature re-  
47 quests additional information between the time the report is received by the



1 legislature and the time the department appears to present the report, then  
2 the department shall supplement its report to include such additional infor-  
3 mation.

4 SECTION 8. That Section 19-862, Idaho Code, be, and the same is hereby  
5 amended to read as follows:

6 19-862. APPROPRIATION FOR PUBLIC DEFENDER -- PRIVATE CONTRIBU-  
7 TIONS. (1) The board of county commissioners of each county shall annually  
8 appropriate enough money to fund the indigent defense provider that it has  
9 selected under section 19-859, Idaho Code, and, except as provided in sub-  
10 section (2) of this section, shall maintain not less than its local share.  
11 ~~and The board of county commissioners of each county may appropriate such~~  
12 money from the justice fund as provided in section 31-4602, Idaho Code, the  
13 current expense fund as provided in section 63-805, Idaho Code, and as a  
14 means of providing nonmedical indigent assistance in accordance with chap-  
15 ter 34, title 31, Idaho Code.

16 (2) The board of county commissioners is not required to expend its full  
17 local share if it can comply with indigent defense standards for less than  
18 that share.

19 (3) If the board of county commissioners of a county elects to estab-  
20 lish and maintain an office of public defender or a joint office of public  
21 defender, the county may accept private contributions toward the support of  
22 the office.

23 SECTION 9. That Section 20-213A, Idaho Code, be, and the same is hereby  
24 amended to read as follows:

25 20-213A. COMPLIANCE WITH OPEN MEETINGS LAW -- EXECUTIVE SESSIONS AU-  
26 THORIZED -- REPORT REQUIRED. (1) All meetings of the commission of pardons  
27 and parole shall be held in accordance with the open meetings law as provided  
28 in chapter 23, title 674, Idaho Code, except:

29 (a) Deliberations and decisions concerning the granting, revoking, re-  
30 instating or refusing of paroles, or the granting or denying of pardons  
31 or commutations, may be made in executive session; and

32 (b) Votes of individual members in arriving at the parole, pardon or  
33 commutation decisions shall not be made public, provided that the com-  
34 mission shall maintain a record of the votes of the individual members  
35 as required in subsection (2) of this section.

36 (2) A written record of the vote to grant or deny parole, pardon or  
37 commutation, by each commission member in each case reviewed by that member  
38 shall be produced by the commission. The record produced by the commission  
39 pursuant to this section shall be kept confidential and privileged from dis-  
40 closure, provided the record shall be made available, upon request, to the  
41 governor and the chairman of the senate judiciary and rules committee and  
42 the chairman of the house of representatives judiciary, rules and adminis-  
43 tration committee, for all lawful purposes. Distribution of the report by  
44 a commissioner or an employee of the executive director to any person not  
45 specifically listed in this section shall be a misdemeanor.

46 (3) Nothing contained in this section shall prevent any person from ob-  
47 taining the results of any parole, pardon or commutation action by the com-

1 mission without reference to the manner in which any member voted, and the  
2 commission shall make such information public information.

3 (4) Nothing contained herein shall prevent the executive director for  
4 the commission or designated staff of the executive director from attending  
5 any meeting, including an executive session of the commission of pardons and  
6 parole.

7 (5) Nothing contained herein shall prevent the governor and chairman  
8 of the senate judiciary and rules committee and the chairman of the house of  
9 representatives judiciary, rules and administration committee from attend-  
10 ing any meeting, including an executive session of the commission of pardons  
11 and parole.

12 SECTION 10. That Section 20-533A, Idaho Code, be, and the same is hereby  
13 amended to read as follows:

14 20-533A. COMPLIANCE WITH OPEN MEETINGS LAW -- EXECUTIVE SESSIONS AU-  
15 THORIZED -- CONFIDENTIALITY OF RECORDS. (1) All meetings of the custody re-  
16 view board of the Idaho department of juvenile corrections shall be held in  
17 accordance with the open meetings law as provided in chapter 23, title 674,  
18 Idaho Code, provided however:

19 (a) Deliberations and decisions of the board concerning whether or not  
20 a juvenile offender shall be held in custody of the Idaho department  
21 of juvenile corrections for an extended period of time past his or her  
22 nineteenth birthday may be made in executive session; and

23 (b) Votes of individual members in custody decisions shall not be made  
24 public, provided that the board shall maintain a record of the votes of  
25 the individual members as required in subsection (2) of this section.

26 (2) A written record of the vote to retain the juvenile offender in cus-  
27 tody for an extended period of time by each board member in each case reviewed  
28 by that member shall be produced by the board. Such record shall be kept con-  
29 fidential and privileged from disclosure, provided the record shall be made  
30 available upon request to the governor, the chairman of the senate judiciary  
31 and rules committee and the chairman of the house of representatives judi-  
32 ciary, rules and administration committee for all lawful purposes.

33 (3) A board member or employee of the Idaho department of juvenile cor-  
34 rections who distributes to any person not specifically listed in this sec-  
35 tion any hearing information or records that are legally required to be kept  
36 confidential shall be guilty of a misdemeanor.

37 (4) Nothing contained in this section shall prevent any person from ob-  
38 taining the results of any action by the board or director of the Idaho de-  
39 partment of juvenile corrections without reference to the manner in which  
40 any member voted, and the board shall make such information public unless do-  
41 ing so would violate public records laws.

42 (5) Nothing contained in this section shall prevent the director, des-  
43 ignated staff of the director, the governor, the chairman of the senate ju-  
44 diciary and rules committee or the chairman of the house of representatives  
45 judiciary, rules and administration committee from attending any meeting,  
46 including any executive session, of the custody review board.

47 SECTION 11. That Section 23-902, Idaho Code, be, and the same is hereby  
48 amended to read as follows:

1 23-902. DEFINITIONS. The following words and phrases used in this  
2 chapter shall be given the following interpretation:

3 (1) "Club" includes any of the following organizations where the sale  
4 of spirituous liquor for consumption on the premises is made to members and  
5 to bona fide guests of members only:

6 (a) A post, chapter, camp or other local unit composed solely of vet-  
7 erans and their duly recognized auxiliary, and which is a post, chap-  
8 ter, camp or other local unit composed solely of veterans which has been  
9 chartered by the congress of the United States for patriotic, fraternal  
10 or benevolent purposes, and which has, as the owner, lessee or occupant,  
11 operated an establishment for that purpose in this state; or

12 (b) A chapter, aerie, parlor, lodge or other local unit of an Ameri-  
13 can national fraternal organization, which has, as the owner, lessee  
14 or occupant, operated an establishment for fraternal purposes in this  
15 state and actively operates in not less than thirty-six (36) states or  
16 has been in continuous existence for not less than twenty (20) years;  
17 and which has no fewer than fifty (50) bona fide members in each unit,  
18 and which owns, maintains or operates club quarters, and is autho-  
19 rized and incorporated to operate as a nonprofit club under the laws of  
20 this state, and which has recognized tax exempt status under section  
21 501(c) (8) or 501(c) (10) of the Internal Revenue Code, and has been con-  
22 tinuously incorporated and operating for a period of not less than one  
23 (1) year. The club shall have had, during that period of one (1) year,  
24 a bona fide membership with regular meetings conducted at least once  
25 each month, and the membership shall be and shall have been actively en-  
26 gaged in carrying out the objects of the club. The club membership shall  
27 consist of bona fide dues-paying members, recorded by the secretary of  
28 the club, paying at least six dollars (\$6.00) per year in dues, payable  
29 monthly, quarterly or annually; and the members at the time of applica-  
30 tion for a club license shall be in good standing, having paid dues for  
31 at least one (1) full year.

32 (2) "Convention" means a formal meeting of members, representatives,  
33 or delegates, as of a political party, fraternal society, profession or in-  
34 dustry.

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

36 (4) "Festival" means a period or program of festive activities, cul-  
37 tural events or entertainment lasting three (3) or more consecutive days.

38 (5) "Gaming" means any and all gambling or games of chance defined in  
39 chapters 38 and 49, title 18, Idaho Code, or any section or sections thereof,  
40 whether those games are licensed or unlicensed.

41 (6) "Interdicted person" means a person to whom the sale of liquor is  
42 prohibited under law.

43 (7) "License" means a license issued by the director to a qualified per-  
44 son, under which it shall be lawful for the licensee to sell and dispense  
45 liquor by the drink at retail, as provided by law.

46 (8) "Licensee" means the person to whom a license is issued under the  
47 provisions of law.

48 (9) "Liquor" means all kinds of liquor sold by and in a state liquor  
49 store of the state of Idaho.

1 (10) "Live performance" means a performance occurring in a theater and  
2 not otherwise in violation of any provision of Idaho law.

3 (11) "Municipal license" means a license issued by a municipality of the  
4 state of Idaho under the provisions of law.

5 (12) "Party" means a social gathering especially for pleasure or amuse-  
6 ment and includes, but is not limited to, such social events as weddings,  
7 birthdays, and special holiday celebrations to include, but not be limited  
8 to, New Year's celebrations, Super Bowl Sunday, St. Patrick's Day, the  
9 Fourth of July and Labor Day.

10 (13) "Person" means any individual, corporation, business corpora-  
11 tion, nonprofit corporation, benefit corporation as defined in section  
12 30-2002(1), Idaho Code, partnership, limited partnership, limited liabil-  
13 ity company, general cooperative association, limited cooperative asso-  
14 ciation, estate, unincorporated nonprofit association, statutory trust,  
15 business trust, common-law business trust, estate trust, association,  
16 joint venture, public corporation, government or governmental subdivision,  
17 agency or instrumentality, any entity defined in section 30-21-102, Idaho  
18 Code, or any other commercial entity, whether conducting the business sin-  
19 gularly or collectively.

20 (14) "Premises" means the building and contiguous property owned or  
21 leased or used under a government permit by a licensee, as part of the busi-  
22 ness establishment in the business of sale of liquor by the drink at retail,  
23 which property is improved to include decks, docks, boardwalks, lawns,  
24 gardens, golf courses, ski resorts, courtyards, patios, poolside areas or  
25 similar improved appurtenances in which the sale of liquor by the drink at  
26 retail is authorized under the provisions of law.

27 (15) "Rules" means rules promulgated by the director in accordance with  
28 the provisions of law.

29 (16) "State liquor store" means a liquor store or distributor estab-  
30 lished under and pursuant to the laws of the state of Idaho for the package  
31 sale of liquor at retail.

32 (17) "Theater" means a room, place or outside structure for perfor-  
33 mances or readings of dramatic literature, plays or dramatic representa-  
34 tions of an art form not in violation of any provision of Idaho law.

35 (178) "Brewery" means a place, premises or establishment for the manu-  
36 facture, bottling or canning of beer.

37 (189) "Winery" means a place, premises or establishment within the  
38 state of Idaho for the manufacture or bottling of table wine or dessert wine  
39 for sale. Two (2) or more wineries may use the same premises and the same  
40 equipment to manufacture their respective wines, to the extent permitted by  
41 federal law.

42 (1920) All other words and phrases used in this chapter, the definitions  
43 of which are not herein given, shall be given their ordinary and commonly un-  
44 derstood and acceptable meanings.

45 SECTION 12. That Section 30-29-1601, Idaho Code, be, and the same is  
46 hereby amended to read as follows:

47 30-29-1601. CORPORATE RECORDS. (1) A corporation shall keep as perma-  
48 nent records minutes of all meetings of its shareholders and board of direc-  
49 tors, a record of all actions taken by the shareholders or board of directors

1 without a meeting, and a record of all actions taken by a committee of the  
2 board of directors in place of the board of directors on behalf of the corpo-  
3 ration.

4 (2) A corporation shall maintain appropriate accounting records.

5 (3) A corporation or its agent shall maintain a record of its sharehold-  
6 ers, in a form that permits preparation of a list of the names and addresses  
7 of all shareholders, in alphabetical order by class of shares showing the  
8 number and class of shares held by each.

9 (4) A corporation shall maintain its records in written form or in an-  
10 other form capable of conversion into written form within a reasonable time.

11 (5) A corporation shall keep a copy of the following records at its  
12 principal office:

13 (a) Its articles or restated articles of incorporation, all amendments  
14 to them currently in effect, and any notices to shareholders referred  
15 to in section 30-29-120(2)(e), Idaho Code, regarding facts on which a  
16 filed document is dependent;

17 (b) Its bylaws or restated bylaws and all amendments to them currently  
18 in effect;

19 (c) Resolutions adopted by its board of directors creating one (1) or  
20 more classes or series of shares, and fixing their relative rights,  
21 preferences, and limitations, if shares issued pursuant to those reso-  
22 lutions are outstanding;

23 (d) The minutes of all shareholders' meetings, and records of all ac-  
24 tion taken by shareholders without a meeting, for the past three (3)  
25 years;

26 (e) All written communications to shareholders generally within the  
27 past three (3) years, including the financial statements furnished for  
28 the past three (3) years under section 30-29-1620, Idaho Code;

29 (f) A list of the names and business addresses of its current directors  
30 and officers; and

31 (g) Its most recent annual report delivered to the secretary of state  
32 under section ~~30-29-1622~~ 30-21-213, Idaho Code.

33 SECTION 13. That Section 31-1433, Idaho Code, be, and the same is hereby  
34 amended to read as follows:

35 31-1433. CONTINUATION OF EXISTING DISTRICTS -- VALIDATING ACTS OF OF-  
36 FICERS. Nothing in this chapter shall be construed as impairing the legality  
37 or organization of any fire protection district heretofore organized pur-  
38 suant to law, nor the legality of any act of such district done in accor-  
39 dance with the prior law, nor shall it be deemed to affect the legality of  
40 the election of any officer of any such existing fire protection district,  
41 and all directors and officers duly elected, qualified and holding office  
42 at the time of the taking effect of this chapter, shall continue to serve in  
43 such office until the expiration of their present terms; provided, however,  
44 that such fire protection districts as have existed heretofore shall comply  
45 with the provisions of this chapter as soon as they can conveniently do so and  
46 thereafter be governed by the provisions of this chapter. Nor shall anything  
47 in this chapter be deemed in any way to affect the existing indebtedness of  
48 any fire protection district created under and by virtue of the provisions  
49 of chapter 30, title 30, Idaho Code. All such existing fire protection dis-

1 tricts, and the lawful acts of their officers and agents, are hereby declared  
 2 prima facie lawful as de facto fire protection districts; provided, however,  
 3 that such districts shall comply with the provisions of this chapter as soon  
 4 as they can conveniently do so and thereafter be governed by the provisions  
 5 of this chapter.

6 SECTION 14. That Section 33-518, Idaho Code, be, and the same is hereby  
 7 amended to read as follows:

8 33-518. EMPLOYEE PERSONNEL FILES. The board of trustees of each school  
 9 district, including any specially chartered district, shall provide for  
 10 the establishment and maintenance of a personnel file for each employee of  
 11 the school district. Each personnel file shall contain any and all material  
 12 relevant to the evaluation of the employee. The employee shall be provided  
 13 timely notice of all materials placed in the personnel file and shall be af-  
 14 farded the opportunity to attach a rebuttal to any such materials. Personnel  
 15 files are declared to be confidential and excepted from public access under  
 16 any provision of the Idaho Code, including, but not limited to, sections  
 17 ~~9-338~~ 74-102 and 59-1009, Idaho Code, provided that each employee or desig-  
 18 nated representative shall be given access to his own personnel file upon  
 19 request and shall be provided copies of materials contained therein, with  
 20 the exception of recommendation letters, in a timely manner upon request.

21 SECTION 15. That Chapter 56, Title 33, Idaho Code, as enacted by Section  
 22 1, Chapter 143, Laws of 2016, be, and the same is hereby amended to read as  
 23 follows:

24 CHAPTER ~~560~~  
 25 PARENTAL RIGHTS IN EDUCATION

26 33-~~5601~~6001. PARENTAL RIGHTS. (1) A student's parent or guardian has  
 27 the right to reasonable academic accommodation from ~~their~~ the child's public  
 28 school. "Reasonable accommodation" means the school shall make its best ef-  
 29 fort to enable a parent or guardian to exercise their rights without substan-  
 30 tial impact to staff and resources, including employee working conditions,  
 31 safety and supervision on school premises for school activities and the ef-  
 32 ficient allocation of expenditures, while balancing the parental rights of  
 33 parents and guardians, the educational needs of other students, the academic  
 34 and behavioral impacts to a classroom, a teacher's workload and the assur-  
 35 ance of the safe and efficient operations of the school.

36 (2) School districts and the boards of directors of public char-  
 37 ter schools, in consultation with parents, teachers and administrators,  
 38 shall develop and adopt a policy to promote the involvement of parents and  
 39 guardians of children enrolled in the schools within the school district or  
 40 the charter school, including:

41 (a) A plan for parent participation in the schools that is designed to  
 42 improve parent and teacher cooperation in such areas as homework, at-  
 43 tendance and discipline;

44 (b) A process by which parents may learn about the course of study for  
 45 their children and review learning materials, including the source of  
 46 any supplemental educational materials; and

1 (c) A process by which parents who object to any learning material or  
 2 activity on the basis that it harms the child or impairs the parents'  
 3 firmly held beliefs, values or principles, may withdraw their child  
 4 from the activity, class or program in which the material is used.

5 ~~33-5602~~6002. ANNUAL NOTICE OF PARENTAL RIGHTS. School districts and  
 6 the boards of directors of public charter schools shall annually notify a  
 7 parent or guardian of a student enrolled in the school district or public  
 8 charter school of the parent's or guardian's rights as specified in this  
 9 chapter.

10 SECTION 16. That Chapter 58, Title 33, Idaho Code, as enacted by Section  
 11 1, Chapter 192, Laws of 2016, be, and the same is hereby amended to read as  
 12 follows:

13 CHAPTER ~~58~~9  
 14 IDAHO SCHOOL SAFETY AND SECURITY ACT

15 ~~33-5801~~5901. SHORT TITLE. This chapter shall be known and may be cited  
 16 as the "Idaho School Safety and Security Act."

17 ~~33-5802~~5902. LEGISLATIVE INTENT. It is the intent of the legislature  
 18 that the purpose of this chapter is to:

19 (1) Promote the safety and security of the students attending the pub-  
 20 lic educational institutions of the state;

21 (2) Provide recommendations, systems and training to assist public  
 22 educational institutions at all levels for the safety and security of stu-  
 23 dents;

24 (3) Enhance the safety and security resources available to public edu-  
 25 cational institutions;

26 (4) Ensure that periodic security assessments of statewide public edu-  
 27 cational institutions are conducted and reported;

28 (5) Ensure that surveys are conducted and research information is re-  
 29 ported to appropriate parties;

30 (6) Promote the use of technical methods, devices and improvements to  
 31 address school security;

32 (7) Encourage the recognition of security design to be incorporated in  
 33 future construction or renovation of public educational institutions; and

34 (8) Provide written reports of security assessments to appropriate  
 35 school administrative authorities.

36 ~~33-5803~~5903. DEFINITION. For the purposes of this chapter, "public  
 37 educational facility" means all structures and buildings existing now or  
 38 constructed in the future that are owned, leased or used by public edu-  
 39 cational institutions, which include public colleges, public community  
 40 colleges, public universities, public school districts, public charter  
 41 schools, or a school for children in any grades kindergarten through 12 that  
 42 is operated by the state of Idaho receiving state funding.

43 ~~33-5804~~5904. OFFICE OF SCHOOL SAFETY AND SECURITY. (1) There is hereby  
 44 established in the Idaho division of building safety the office of school

1 safety and security. The administrator of the division of building safety  
2 may hire a manager of the office of school safety and security who shall be  
3 responsible for the performance of the regular administrative functions of  
4 the office and other duties as the administrator may direct. The manager of  
5 the office of school safety and security shall be a nonclassified employee.  
6 The administrator of the division of building safety may employ persons in  
7 addition to the manager in other positions or capacities as he or she deems  
8 necessary to fulfill the responsibilities of the office of school safety and  
9 security as set forth in this section. The administrator shall provide an  
10 office, office equipment and facilities as may be reasonably necessary for  
11 the proper performance of the duties of the office manager and other office  
12 personnel.

13 (2) The administrator of the division of building safety and the man-  
14 ager and other personnel of the office of school safety and security may en-  
15 ter all public educational facilities in this state at reasonable times to  
16 conduct annual assessments for consistency with the school safety and secu-  
17 rity guidelines developed by the Idaho school safety and security advisory  
18 board. To the extent possible, such assessments should occur simultaneously  
19 with inspections conducted pursuant to section 39-8008, Idaho Code. The of-  
20 fice of school safety and security shall prepare a written report for each  
21 security assessment it conducts. At a minimum, such reports shall include  
22 any safety or security vulnerabilities found in the subject school and rec-  
23 ommendations for remedying such vulnerabilities. The office shall provide a  
24 copy of the report to the local education agency and to the school principal  
25 or president. The office shall also prepare an annual report, a copy of which  
26 shall be submitted to the state board of education and to the Idaho school  
27 safety and security advisory board each year.

28 (3) Upon request of any public educational institution, the office of  
29 school safety and security shall provide training and technical assistance  
30 on best practices and resources for school safety and security as set forth  
31 in the guidelines established by the Idaho school safety and security advi-  
32 sory board.

33 (4) The Idaho division of building safety may receive grant moneys on  
34 behalf of the office of school safety and security to carry out the responsi-  
35 bilities of the office.

36 (5) On July 1 of each year, or as soon as practicable, the state con-  
37 troller shall transfer three hundred thousand dollars (\$300,000) from the  
38 public school income fund to the division of building safety's miscellaneous  
39 revenue fund 0349 for the purposes of this section.

40 ~~33-58055905~~. IDAHO SCHOOL SAFETY AND SECURITY ADVISORY BOARD. (1)  
41 There is hereby established in the Idaho division of building safety the  
42 Idaho school safety and security advisory board. The advisory board shall  
43 consist of thirteen (13) members as follows:

44 (a) Four (4) members appointed by the governor as follows:

- 45 (i) One (1) parent of a student who attends an Idaho public  
46 school;  
47 (ii) One (1) teacher who teaches in an Idaho public school;  
48 (iii) One (1) representative of a local school board; and  
49 (iv) One (1) representative of school superintendents;



1 (b) One (1) representative from the office of the state superintendent  
2 of public instruction;

3 (c) One (1) representative from the state board of education;

4 (d) One (1) representative from the Idaho state police;

5 (e) One (1) representative from the Idaho chiefs of police association;

6 (f) One (1) representative from the Idaho sheriffs' association;

7 (g) One (1) representative from the Idaho ~~bureau of homeland security~~  
8 office of emergency management;

9 (h) One (1) representative from the Idaho fire chiefs association; and

10 (i) Two (2) representatives from the state legislature that shall in-  
11 clude one (1) member from the senate appointed by the president pro tem-  
12 pore of the senate and one (1) member from the house of representatives  
13 appointed by the speaker of the house of representatives.

14 (2) The members of the advisory board shall serve the following terms:

15 (a) The gubernatorial appointees shall serve terms of three (3) years.

16 (b) All other members shall serve terms of two (2) years.

17 (3) A vacancy on the advisory board shall be filled in the same manner as  
18 the original appointment and for the balance of the unexpired term.

19 (4) The advisory board shall appoint a chairperson from among its mem-  
20 bers for a term certain.

21 (5) The members of the advisory board shall be compensated as provided  
22 in section 59-509(b), Idaho Code.

23 (6) The advisory board shall meet at least annually, but may meet more  
24 frequently subject to the call of the chairperson.

25 ~~33-5806~~5906. POWERS AND DUTIES OF THE IDAHO SCHOOL SAFETY AND SECURITY  
26 ADVISORY BOARD. The Idaho school safety and security advisory board shall:

27 (1) Develop, annually review and modify, if necessary, school safety  
28 and security guidelines for the office of school safety and security to use  
29 in conducting its annual assessments, training and technical assistance  
30 pursuant to section ~~33-5804~~5904, Idaho Code;

31 (2) Regularly assess safety and security resources that may be used in  
32 public educational facilities; and

33 (3) On or before February 1 of each year, report to the legislature and  
34 to the governor on the status of school safety and security in the Idaho pub-  
35 lic educational facilities.

36 SECTION 17. That Section 39-3133, Idaho Code, be, and the same is hereby  
37 amended to read as follows:

38 39-3133. EXECUTIVE COMMITTEE OF THE REGIONAL BEHAVIORAL HEALTH  
39 BOARDS. Each regional behavioral health board shall annually elect from  
40 within its membership an executive committee of five (5) members empowered  
41 to make fiscal, legal and business decisions on behalf of the full board or  
42 join with another governmental entity that can fulfill the same management  
43 infrastructure function. If the regional behavioral health board elects to  
44 create its own internal executive committee, the membership shall be repre-  
45 sentative of the regional behavioral health board membership and must, at  
46 a minimum, include one (1) mental health consumer or advocate and one (1)  
47 substance use disorder consumer or advocate. The executive committees or

1 the partner public entity shall have the power and duty, on behalf of the  
2 regional behavioral health boards, to:

3 (1) Establish a fiscal control policy as required by the state con-  
4 troller;

5 (2) Enter into contracts and grants with other governmental and private  
6 agencies, and this chapter hereby authorizes such other agencies to enter  
7 into contracts with the regional behavioral health boards, as deemed neces-  
8 sary to fulfill the duties imposed upon the board to promote and sustain the  
9 ability of individuals with behavioral health disorders to live in the com-  
10 munity and avoid institutionalization;

11 (3) Develop and maintain bylaws as necessary to establish the process  
12 and structure of the board; and

13 (4) Employ and fix the compensation, subject to the provisions of chap-  
14 ter 53, title 67, Idaho Code, of such personnel as may be necessary to carry  
15 out the duties of the regional behavioral health boards.

16 All meetings of the executive committee shall be held in accordance with  
17 the open meetings law as provided for in chapter 23, title 67, Idaho Code.

18 SECTION 18. That Section 39-3134, Idaho Code, be, and the same is hereby  
19 amended to read as follows:

20 39-3134. REGIONAL BEHAVIORAL HEALTH BOARD -- MEMBERS -- TERMS -- AP-  
21 POINTMENT. A regional behavioral health board for each region shall consist  
22 of twenty-two (22) members and shall be appointed as provided herein. All  
23 meetings of the regional behavioral health board shall be held in accordance  
24 with the open meetings law as provided for in chapter 23, title 67, Idaho  
25 Code. Members shall be comprised of the following: three (3) county commis-  
26 sioners or their designee; two (2) department of health and welfare employ-  
27 ees who represent the behavioral health system within the region; one (1)  
28 parent of a child with a serious emotional disturbance; one (1) parent of a  
29 child with a substance use disorder; a law enforcement officer; one (1) adult  
30 mental health services consumer representative; one (1) mental health adv-  
31 cate; one (1) substance use disorder advocate; one (1) adult substance use  
32 disorder services consumer representative; one (1) family member of an adult  
33 mental health services consumer; one (1) family member of an adult substance  
34 use disorder services consumer; a private provider of mental health services  
35 within the region; a private provider of substance use disorder services  
36 within the region; a representative of the elementary or secondary public  
37 education system within the region; a representative of the juvenile justice  
38 system within the region; a representative of the adult correction system  
39 within the region; a representative of the judiciary appointed by the admin-  
40 istrative district judge; a physician or other licensed health practitioner  
41 from within the region; and a representative of a hospital within the region.  
42 The consumer, parent and family representatives shall be selected from nomi-  
43 nations submitted by behavioral health consumer and advocacy organizations.  
44 The board may have nonvoting members as necessary to fulfill its roles and  
45 responsibilities. The board shall meet at least twice each year, and shall  
46 annually elect a chairperson and other officers as it deems appropriate.

47 On the effective date of this chapter, the appointing authority in  
48 each region shall be a committee composed of the chairperson of the board  
49 of county commissioners of each of the counties within the region, the cur-

1     rent chair of the regional mental health board and the current chair of the  
 2     regional advisory committee and, after the initial appointment of members  
 3     to the regional behavioral health board, the current chair of the regional  
 4     behavioral health board and one (1) representative of the department of  
 5     health and welfare. The committee shall meet annually or as needed to fill  
 6     vacancies on the board.

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

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

26    SECTION 19. That Chapter 93, Title 39, Idaho Code, as enacted by Section  
 27    1, Chapter 168, Laws of 2016, be, and the same is hereby amended to read as  
 28    follows:

29                                    CHAPTER 934  
 30                                    RIGHT TO TRY ACT

31    39-~~9301~~9401.   SHORT TITLE. This chapter shall be known and may be cited  
 32    as the "Right to Try Act."

33    39-~~9302~~9402.   LEGISLATIVE INTENT. It is the intent of the legislature  
 34    to provide the opportunity for terminally ill patients to have access to cer-  
 35    tain investigational treatments without requiring another party, including  
 36    a physician, manufacturer, insurer or government agency, to offer, provide  
 37    or pay for such treatments. By enacting this chapter, the legislature in-  
 38    tends only to permit these treatments to terminally ill patients in Idaho.  
 39    It is not the intent of the legislature to create an obligation but to ensure  
 40    that all persons or parties availing themselves of this chapter do so volun-  
 41    tarily. Due to the experimental nature of these treatments, it is further  
 42    the intent of the legislature to protect physicians and other parties from  
 43    civil, criminal or professional liability relating to the treatments.

44    39-~~9303~~9403.   DEFINITIONS. As used in this chapter:

45    (1) "Eligible patient" or "patient" means an individual who has a ter-  
 46    minal illness and has:

1 (a) Considered all other treatment options currently approved by the  
2 United States food and drug administration;

3 (b) Received a recommendation from the patient's treating physician  
4 for an investigational drug, biological product or device for purposes  
5 related to the terminal illness;

6 (c) Given written, informed consent for the use of the recommended in-  
7 vestigational drug, biological product or device; and

8 (d) Received documentation from the eligible patient's treating physi-  
9 cian that the eligible patient meets the requirements of this subsec-  
10 tion.

11 (2) "Investigational drug, biological product or device" means a drug,  
12 biological product or device that has successfully completed phase 1 of a  
13 clinical trial but has not yet been approved for general use by the United  
14 States food and drug administration and remains under investigation in a  
15 United States food and drug administration-approved clinical trial.

16 (3) "Terminal illness" means a progressive disease or medical or surgi-  
17 cal condition that:

18 (a) Entails functional impairment that significantly impacts the pa-  
19 tient's activities of daily living;

20 (b) Is not considered by a treating physician to be reversible even with  
21 administration of current United States food and drug administration-  
22 approved and available treatments; and

23 (c) Without life-sustaining procedures, will soon result in death.

24 (4) "Written, informed consent" means a written document that is signed  
25 by the eligible patient and, if the patient is a minor, a parent or legal  
26 guardian, which document is attested to by the patient's physician and a wit-  
27 ness and that includes the following:

28 (a) An explanation of the currently approved products and treatments  
29 for the disease or condition from which the patient suffers;

30 (b) An attestation that the patient concurs with the patient's physi-  
31 cian in believing that all currently approved and conventionally recog-  
32 nized treatments are unlikely to prolong the patient's life;

33 (c) Clear identification of the specific proposed investigational  
34 drug, biological product or device that the patient is seeking to use;

35 (d) A description of the potentially best and worst outcomes of using  
36 the investigational drug, biological product or device and a realistic  
37 description of the most likely outcome. The description shall include  
38 the possibility that new, unanticipated, different or worse symptoms  
39 might result and that death could be hastened by the proposed treatment.  
40 The description shall be based on the physician's knowledge of the pro-  
41 posed treatment in conjunction with an awareness of the patient's con-  
42 dition;

43 (e) A statement that the patient's health plan or third-party adminis-  
44 trator and provider are not obligated to pay for any care or treatments  
45 consequent to the use of the investigational drug, biological product  
46 or device unless specifically required to do so by law or contract;

47 (f) A statement that the patient's eligibility for hospice care might  
48 be withdrawn if the patient begins curative treatment with the investi-  
49 gational drug, biological product or device and that care may be rein-

1 stated if the treatment ends and the patient meets hospice eligibility  
2 requirements; and

3 (g) A statement that the patient understands that the patient is re-  
4 sponsible for all expenses consequent to the use of the investigational  
5 drug, biological product or device and that this liability extends to  
6 the patient's estate unless a contract between the patient and the manu-  
7 facturer of the drug, biological product or device states otherwise.

8 39-93049404. INVESTIGATIONAL DRUGS -- RIGHT TO TRY AND PRO-  
9 VIDE. (1) An eligible patient may request, and a manufacturer may make  
10 available to an eligible patient under the supervision of the patient's  
11 treating physician, the manufacturer's investigational drug, biological  
12 product or device, which drug, product or device shall be clearly labeled as  
13 investigational; provided however, that this chapter does not require that a  
14 manufacturer make available an investigational drug, biological product or  
15 device to an eligible patient.

16 (2) A manufacturer may:

17 (a) Provide an investigational drug, biological product or device to an  
18 eligible patient without receiving compensation; or

19 (b) Require an eligible patient to pay the costs associated with the  
20 manufacture of the investigational drug, biological product or device.

21 39-93059405. NO COVERAGE OBLIGATION. (1) This chapter does not expand  
22 the coverage required of an insurer under the laws of this state.

23 (2) A health plan, third-party administrator or government agency may,  
24 but is not required to, provide coverage for the cost of an investigational  
25 drug, biological product or device or the cost of services related to the use  
26 of an investigational drug, biological product or device.

27 (3) This chapter does not require any health plan, third-party adminis-  
28 trator or government agency to pay costs associated with the use of an inves-  
29 tigational drug, biological product or device.

30 (4) This chapter does not require a hospital or facility licensed in  
31 this state to provide new or additional services unless such services are ap-  
32 proved by the hospital or facility.

33 39-93069406. HEIRS NOT LIABLE FOR TREATMENT DEBT. If a patient dies  
34 while being treated by an investigational drug, biological product or de-  
35 vice under the terms of this chapter, the patient's heirs are not liable for  
36 any outstanding debt related to the treatment or lack of insurance due to the  
37 treatment.

38 39-93079407. PROHIBITIONS. (1) A licensing board or disciplinary body  
39 of this state shall not revoke, fail to renew, suspend or take any action  
40 against a health care provider's license based solely on the provider's rec-  
41 ommendations to an eligible patient regarding access to or treatment with  
42 an investigational drug, biological product or device as allowed under this  
43 act.

44 (2) An entity responsible for medicare certification shall not take ac-  
45 tion against a health care provider's medicare certification based solely  
46 on the health care provider's recommendation that a patient have access to

1 an investigational drug, biological product or device as allowed under this  
2 act.

3 (3) An official, employee or agent of this state shall not block or at-  
4 tempt to block an eligible patient's access to an investigational drug, bio-  
5 logical product or device as allowed under this act.

6 ~~39-9308~~9408. LIMITATIONS. (1) This chapter does not create a private  
7 cause of action against a manufacturer of an investigational drug, biologi-  
8 cal product or device or against a physician or any other person or entity in-  
9 volved in the care of an eligible patient using an investigational drug, bio-  
10 logical product or device for any harm done to the eligible patient resulting  
11 from the investigational drug, biological product or device, provided that  
12 the manufacturer, physician, or person or entity has exercised reasonable  
13 care and complied in good faith with the terms of this chapter.

14 (2) This chapter does not create a private cause of action against a  
15 treating physician who refuses to recommend an investigational drug, bio-  
16 logical product or device to a patient with a terminal illness.

17 ~~39-9309~~9409. MANDATORY COVERAGE NOT AFFECTED. This chapter does not  
18 affect any mandatory health care coverage for participation in clinical tri-  
19 als provided elsewhere by law.

20 SECTION 20. That Section 41-307, Idaho Code, be, and the same is hereby  
21 amended to read as follows:

22 41-307. AUTHORIZATION FOR INVESTMENT PURPOSES ONLY. A foreign insurer  
23 may make investments in this state without certificate of authority as pro-  
24 vided by section ~~30-1-1501~~ 30-21-502, Idaho Code. Such an insurer shall not  
25 be subject to any other provision of this code.

26 SECTION 21. That Section 41-332, Idaho Code, be, and the same is hereby  
27 amended to read as follows:

28 41-332. FOREIGN INSURERS EXEMPT FROM CORPORATION LAWS GOVERNING AD-  
29 MISSION OF FOREIGN CORPORATIONS. A foreign insurer authorized to transact  
30 insurance in this state and fully complying with this code shall be exempt  
31 from complying with the provisions of sections ~~30-1-1501~~ 30-21-501 through  
32 ~~30-1-1532~~ 30-21-512, Idaho Code.

33 SECTION 22. That Section 41-342, Idaho Code, be, and the same is hereby  
34 amended to read as follows:

35 41-342. REDOMESTICATION AS A DOMESTIC INSURER -- CONVERSION TO FOR-  
36 EIGN INSURER. (1) Any insurer which is organized under the laws of any other  
37 state and is admitted to do business in this state for the purpose of writing  
38 insurance may become a domestic insurer by complying with all of the require-  
39 ments of law relative to the organization and licensing of a domestic insurer  
40 of the same type and by designating its principal place of business at a place  
41 in Idaho in compliance with section 41-2839, Idaho Code. Such a domestic in-  
42 surer shall be entitled to a certificate of redomestication and a certifi-

1 cate of authority to transact business in this state, and shall have the same  
2 rights and obligations as other domestic insurers of this state.

3 (2) Any domestic insurer may, upon the approval of the director, trans-  
4 fer its domicile to any other state in which it is admitted to transact the  
5 business of insurance. Upon such a transfer, the insurer shall cease to be a  
6 domestic insurer. If the insurer is otherwise qualified, the director shall  
7 admit the insurer to this state as a foreign insurer. The director shall ap-  
8 prove any such proposed transfer unless he determines that such a transfer is  
9 not in the interest of the policyholders of the insurer in this state. After  
10 the director has approved the transfer, the director shall provide written  
11 notice to the secretary of state that the insurer has transferred its domi-  
12 cile to another state, stating the effective date of the transfer and the  
13 state to which the insurer has transferred its domicile. Upon receipt of the  
14 written notice from the director and the payment of the fee required in sec-  
15 tion ~~30-1-122~~ 30-21-214, Idaho Code, the secretary of state shall file the  
16 notice and, on the effective date of the transfer, terminate the existence of  
17 the insurance company as a domestic corporation.

18 (3) The certificate of authority, appointment of statutory agent and  
19 licenses, policy forms, rates, authorizations and other filings and ap-  
20 provals in existence at the time an insurer admitted to transact insurance  
21 in this state transfers its corporate domicile to this or any other state,  
22 continue in effect upon the transfer of corporate domicile. All rates and  
23 outstanding policies of any transferring insurer shall remain in full force  
24 and effect and policies need not be endorsed as to the new domicile unless  
25 so ordered by the director. Every transferring insurer shall either file  
26 new policy forms for use in this state with the director on or before the  
27 effective date of the transfer, or use existing policy forms in this state  
28 with appropriate endorsements as allowed by, and under such conditions as  
29 may be approved by the director. Every transferring insurer shall notify  
30 the director of the proposed transfer, and shall promptly file any resulting  
31 amendments to its corporate documents required to be filed with the direc-  
32 tor.

33 SECTION 23. That Section 41-343, Idaho Code, be, and the same is hereby  
34 amended to read as follows:

35 41-343. ARTICLES OF REDOMESTICATION. (1) Upon receiving approval un-  
36 der section 41-342, Idaho Code, articles of redomestication shall be exe-  
37 cuted in duplicate by an insurance corporation by its president or a vice  
38 president and by its secretary or an assistant secretary and verified by one  
39 (1) of the officers of the corporation and shall set forth:

40 (a) The date of approval of the director of the Idaho department of in-  
41 surance of the redomestication; and

42 (b) The state in which the insurer was originally incorporated, the  
43 date the insurer was incorporated in that state, and the date the in-  
44 surer was authorized to do business as an insurer in the state in which  
45 it was originally incorporated.

46 (2) The insurer shall attach to the articles of redomestication:

47 (a) Articles of incorporation including such amendments as may be re-  
48 quired to comply with the requirements of ~~section 30-1-54~~ part 10, chap-  
49 ter 29, title 30, Idaho Code;

1 (b) A copy of the certificate of redomestication issued by the director  
2 of the Idaho department of insurance.

3 (3) Duplicate originals of the articles of redomestication shall be de-  
4 livered to the secretary of state. If the secretary of state finds that such  
5 articles conform to law, he shall, when all fees have been paid as prescribed  
6 in chapter 21, title 30, Idaho Code:

7 (a) Endorse on each of such duplicate originals the ~~work~~ word "Filed,"  
8 and the month, day and year of the filing, together with the date from  
9 which the insurer has existed and operated as an insurer which shall be  
10 the date the insurer was originally incorporated in the state in which  
11 the insurer was originally incorporated;

12 (b) File one (1) of such duplicate originals in his office; and

13 (c) Issue a certificate ~~of~~ of redomestication setting forth the date on  
14 which the articles of redomestication were filed and the date from which  
15 the insurer has existed and operated as an insurer which shall be the  
16 date the insurer was originally incorporated in the state in which the  
17 insurer was originally incorporated.

18 (4) The certificate of redomestication, together with the duplicate  
19 original of the articles of redomestication affixed thereto by the secretary  
20 of state, shall be returned to the insurer or to its representative.

21 SECTION 24. That Section 41-2803, Idaho Code, be, and the same is hereby  
22 amended to read as follows:

23 41-2803. APPLICABILITY OF GENERAL CORPORATION STATUTES. (1) The ap-  
24 plicable statutes of this state relating to the powers and procedures of do-  
25 mestic private corporations formed for profit shall apply to domestic stock  
26 insurers and to domestic mutual insurers, except where in conflict with the  
27 express provisions of this code and the reasonable implications of such pro-  
28 visions.

29 (2) Domestic stock insurers and domestic mutual insurers are exempt  
30 from the provisions of section ~~30-1-1622~~ 30-21-213, Idaho Code.

31 SECTION 25. That Section 41-2804, Idaho Code, be, and the same is hereby  
32 amended to read as follows:

33 41-2804. INCORPORATION. (1) This section applies to stock and mutual  
34 insurers hereafter incorporated in this state.

35 (2) Incorporators. Seven (7) or more individuals who are citizens of  
36 this state may incorporate a stock insurer; ten (10) or more of such individ-  
37 uals may incorporate a mutual insurer.

38 (3) Articles of incorporation. The incorporators shall prepare and ex-  
39 ecute in triplicate articles of incorporation in accordance with the appli-  
40 cable provisions of chapters 21 and 30, title 30, Idaho Code, known as the  
41 "General Business Corporation" laws of this state, but subject to the fol-  
42 lowing requirements:

43 (a) In addition to matters required or permitted under such general  
44 business corporation laws which are not inconsistent with this provi-  
45 sion or this code, the articles of incorporation shall set forth:

46 (i) The name of the corporation, which shall comply with section  
47 41-311, Idaho Code.



1 (ii) The kinds of insurance, as defined in this code, which the  
2 corporation is formed to transact.

3 (iii) If a stock corporation, its authorized capital stock, the  
4 number of shares of stock into which divided and the par value  
5 of each such share, which par value shall be at least one dollar  
6 (\$1.00). Shares without par value shall not be authorized.

7 (iv) If a stock corporation, the extent, if any, to which shares of  
8 its stock are subject to assessment.

9 (v) If a mutual corporation, the maximum contingent liability of  
10 its members, for payment of losses and expenses incurred, other  
11 than as to nonassessable policies issued as permitted under sec-  
12 tion 41-2849, Idaho Code; such liability shall be as stated in the  
13 articles of incorporation, but shall not be less than one (1) nor  
14 more than six (6) annual premiums for the member's policy.

15 (vi) The name and residence address of each incorporator, and  
16 whether each such incorporator is a citizen of this state.

17 (b) Articles of incorporation shall be filed as provided in section  
18 41-2805, Idaho Code.

19 SECTION 26. That Section 41-3824, Idaho Code, be, and the same is hereby  
20 amended to read as follows:

21 41-3824. MUTUAL INSURANCE HOLDING COMPANIES.

22 (1) (a) A domestic mutual insurer, upon approval of the director, may  
23 reorganize by forming an insurance holding company system, which shall  
24 be designated as "a mutual insurance holding company," based upon a  
25 mutual insurance company plan and continuing the corporate existence  
26 of the reorganizing insurer as a stock insurer. The director, after a  
27 public hearing as provided in section 41-3806, Idaho Code, if satisfied  
28 that the interests of the policyholders are properly protected and that  
29 the plan of reorganization is fair and equitable to the policyholders,  
30 may approve the proposed plan of reorganization and may require as a  
31 condition of approval such modifications of the proposed plan of reor-  
32 ganization as the director finds necessary for the protection of the  
33 policyholders' interests. The director may retain consultants for this  
34 purpose as provided in section 41-3806(5), Idaho Code. A reorganiza-  
35 tion pursuant to this section is subject to the requirements of sections  
36 41-3804 and 41-3805, Idaho Code. The director shall retain jurisdic-  
37 tion over a mutual insurance holding company organized pursuant to this  
38 section to assure that policyholder interests are protected.

39 (b) All of the initial shares of the capital stock of the reorganized  
40 insurer shall be issued to the mutual insurance holding company. The  
41 membership interests of the policyholders of the reorganized insurer  
42 shall become membership interests in the mutual insurance holding com-  
43 pany. Policyholders of the reorganized insurer shall be members of the  
44 mutual insurance holding company in accordance with the articles of in-  
45 corporation and bylaws of the mutual insurance holding company. The mu-  
46 tual insurance holding company shall at all times own a majority of the  
47 voting shares of the capital stock of the reorganized insurer.

48 (2) (a) A domestic mutual insurer, upon the approval of the director,  
49 may reorganize by merging its policyholders' membership interests into

1 a mutual insurance holding company formed pursuant to subsection (1) of  
2 this section and continuing the corporate existence of the reorganizing  
3 insurer as a stock insurer subsidiary of the mutual insurance holding  
4 company. The director, after a public hearing as provided in section  
5 41-3806, Idaho Code, if satisfied that the interests of the policyhold-  
6 ers are properly protected and that the merger is fair and equitable to  
7 the policyholders, may approve the proposed merger and may require as a  
8 condition of approval such modifications of the proposed merger as the  
9 director finds necessary for the protection of the policyholders' in-  
10 terests. For this purpose, the director may retain consultants as pro-  
11 vided in section 41-3806(5), Idaho Code. A merger pursuant to this sub-  
12 section is subject to sections 41-3804 and 41-3805, Idaho Code. The di-  
13 rector shall retain jurisdiction over the mutual insurance holding com-  
14 pany organized pursuant to this section to assure that policyholder in-  
15 terests are protected.

16 (b) All of the initial shares of the capital stock of the reorganized  
17 insurer shall be issued to the mutual insurance holding company. The  
18 membership interests of the policyholders of the reorganized insurance  
19 company shall become membership interests in the mutual insurance hold-  
20 ing company. Policyholders of the reorganized insurer shall be members  
21 of the mutual insurance holding company in accordance with the articles  
22 of incorporation and bylaws of the mutual insurance holding company.  
23 The mutual insurance holding company shall at all times own a majority  
24 of the voting shares of the capital stock of the reorganized insurer.  
25 A merger of policyholders' membership interests in a mutual insurer  
26 into a mutual insurance holding company shall be deemed to be a merger  
27 of insurance companies pursuant to section 41-2857, Idaho Code, and is  
28 subject to the requirements of section 41-2857, Idaho Code.

29 (c) A foreign mutual insurer that is a domestic insurer organized under  
30 chapter 3, title 41, Idaho Code, may reorganize upon the approval of  
31 the director and in compliance with the requirements of any law or rule  
32 applicable to the foreign mutual insurer by merging its policyholders'  
33 membership interests into a mutual insurance holding company formed  
34 pursuant to subsection (1) of this section and continuing the corporate  
35 existence of the reorganizing foreign mutual insurer as a foreign stock  
36 insurer subsidiary of the mutual insurance holding company. The direc-  
37 tor, after a public hearing as provided in section 41-3806, Idaho Code,  
38 may approve the proposed merger. The director may retain consultants  
39 as provided in section 41-3806(5), Idaho Code. A merger pursuant to  
40 this paragraph is subject to the requirements of sections 41-3804 and  
41 41-3805, Idaho Code. The reorganizing foreign mutual insurer may re-  
42 main a foreign company or foreign corporation after the merger and may  
43 be admitted to do business in this state, upon approval by the director.  
44 A foreign mutual insurer that is a party to the merger may at the same  
45 time redomesticate in this state by complying with the applicable re-  
46 quirements of this state and its state of domicile. The provisions of  
47 ~~subsection (2) paragraph~~ (b) of this subsection shall apply to a merger  
48 authorized under this paragraph.

49 (3) A mutual insurance holding company resulting from the reorganiza-  
50 tion of a domestic mutual insurer organized under chapter 21, title 30, Idaho

1 Code, shall be incorporated pursuant to chapter 21, title 30, Idaho Code.  
2 This requirement shall supersede any conflicting provisions of chapter 21,  
3 title 30, Idaho Code. The articles of incorporation and any amendments to  
4 such articles of the mutual insurance holding company shall be subject to ap-  
5 proval of the director in the same manner as those of an insurance company.

6 (4) A mutual insurance holding company is deemed to be an insurer sub-  
7 ject to chapter 33, title 41, Idaho Code, and shall automatically be a party  
8 to any proceeding under chapter 33, title 41, Idaho Code, involving an in-  
9 surer that, as a result of a reorganization pursuant to subsection (1) or (2)  
10 of this section, is a subsidiary of the mutual insurance holding company.  
11 In any proceeding under chapter 33, title 41, Idaho Code, involving the re-  
12 organized insurer, the assets of the mutual insurance holding company are  
13 deemed to be assets of the estate of the reorganized insurer for purposes of  
14 satisfying the claims of the reorganized insurer's policyholders. A mutual  
15 insurance holding company shall not be dissolved or liquidated without the  
16 prior approval of the director or as ordered by the district court pursuant  
17 to chapter 33, title 41, Idaho Code.

18 (5) (a) Section 41-2855, Idaho Code, is not applicable to a reorganiza-  
19 tion or merger pursuant to this section.

20 (b) Section 41-2855, Idaho Code, is applicable to demutualization of  
21 a mutual insurance holding company that resulted from the reorganiza-  
22 tion of a domestic mutual insurer organized pursuant to chapter 3, title  
23 41, Idaho Code, as if the domestic mutual insurer were a mutual life in-  
24 surer.

25 (6) A membership interest in a domestic mutual insurance holding com-  
26 pany shall not constitute a security as defined in section 30-14-102(28),  
27 Idaho Code.

28 (7) The majority of the voting shares of the capital stock of the reor-  
29 ganized insurer, which is required by this section to be at all times owned  
30 by a mutual insurance holding company, shall not be conveyed, transferred,  
31 assigned, pledged, subject to a security interest or lien, encumbered or  
32 otherwise hypothecated or alienated by the mutual insurance holding company  
33 or intermediate holding company. Any conveyance, transfer, assignment,  
34 pledge, security interest, lien, encumbrance, hypothecation or alienation  
35 of, in or on the majority of the voting shares of the reorganized insurer that  
36 is required by this section to be at all times owned by a mutual insurance  
37 holding company, is in violation of the provisions of this section and shall  
38 be void in inverse chronological order of the date of such conveyance, trans-  
39 fer, assignment, pledge, security interest, lien, encumbrance or hypothe-  
40 cation or alienation, as to the shares necessary to constitute a majority of  
41 such voting shares. The majority of the voting shares of the capital stock of  
42 the reorganized insurer that is required by this section to be at all times  
43 owned by a mutual insurance holding company shall not be subject to execution  
44 and levy as provided in title 11, Idaho Code. The shares of the capital stock  
45 of the surviving or new company resulting from a merger or consolidation of  
46 two (2) or more reorganized insurers or two (2) or more intermediate holding  
47 companies that were subsidiaries of the same mutual insurance holding com-  
48 pany are subject to the same requirements, restrictions and limitations as  
49 provided in this section to which the shares of the merging or consolidating

1 reorganized insurers or intermediate holding companies were subject as pro-  
2 vided in this section prior to the merger or consolidation.

3 (a) As used in this section, "majority of the voting shares of the capi-  
4 tal stock of the reorganized insurer" means shares of the capital stock  
5 of the reorganized insurer that carry the right to cast a majority of the  
6 votes entitled to be cast by all of the outstanding shares of the capi-  
7 tal stock of the reorganized insurer for the election of directors and  
8 on all other matters submitted to a vote of the shareholders of the re-  
9 organized insurer. The ownership of a majority of the voting shares of  
10 the capital stock of the reorganized insurer that is required pursuant  
11 to this section to be at all times owned by a parent mutual insurance  
12 holding company includes indirect ownership through one (1) or more in-  
13 termediate holding companies in a corporate structure approved by the  
14 director. However, indirect ownership through one (1) or more interme-  
15 diate holding companies shall not result in the mutual insurance hold-  
16 ing company owning less than the equivalent of a majority of the voting  
17 shares of the capital stock of the reorganized insurer. The director  
18 shall have jurisdiction over an intermediate holding company as if it  
19 were a mutual insurance holding company.

20 (b) As used in this section, "intermediate holding company" means a  
21 holding company that is a subsidiary of a mutual insurance holding  
22 company and that either directly or through a subsidiary intermediate  
23 holding company has one (1) or more subsidiary-reorganized insurers of  
24 which a majority of the voting shares of the capital stock would other-  
25 wise have been required pursuant to this section to be at all times owned  
26 by the mutual insurance holding company.

27 (8) It is the intent of the legislature that the formation of a mutual  
28 insurance holding company shall not increase the Idaho tax burden of the mu-  
29 tual insurance holding company system and that a stock insurance subsidiary  
30 shall continue to be subject to Idaho insurance premium taxation in lieu of  
31 all other taxes except real property taxes as provided in section 41-405,  
32 Idaho Code. Subject to approval by the director as required under Idaho law,  
33 a stock insurance subsidiary may issue dividends or distributions to the mu-  
34 tual insurance holding company or any intermediate holding company and such  
35 dividends or distributions shall be excluded from the Idaho taxable income  
36 of the recipients; provided however, that such exclusion shall not apply if,  
37 in the year preceding the year in which the dividends or distributions were  
38 made, the subsidiary insurer's liability for Idaho premium tax was less than  
39 the amount of Idaho income tax, computed after allowance for income tax cred-  
40 its, for which the insurer would have been liable in such year had the insurer  
41 been subject to Idaho income taxation rather than premium taxation.

42 SECTION 27. That Section 41-4934, Idaho Code, be, and the same is hereby  
43 amended to read as follows:

44 41-4934. PROHIBITED PECUNIARY INTERESTS IN PLAN MANAGEMENT. (1) Nei-  
45 ther the administrator nor any other person having responsibility for the  
46 management of the trust fund or the investment or other handling of the trust  
47 fund moneys or assets shall:

48 (a) Receive directly or indirectly or be pecuniarily interested in  
49 any fee, commission, compensation or emolument, other than salary or

1 other similar compensation regularly fixed and allowed for services  
2 regularly rendered to the trust fund, arising out of any transaction to  
3 which the trust fund is or is to be a party;

4 (b) Receive compensation as a consultant to the trust fund while also  
5 acting as a trustee or administrator, or as an employee of either;

6 (c) Have any direct or indirect material pecuniary interest in any loan  
7 or investment of the trust fund.

8 (2) The director may, after reasonable notice and a hearing, prohibit  
9 the administrator from employing or retaining or continuing to employ or re-  
10 tain any person in the administration of the trust fund upon finding that  
11 such employment or retention involves a conflict of interest not in the best  
12 interests of the trust fund or adversely affecting the interests of the own-  
13 ers or operators insured by the trust fund.

14 (3) Any conflict of interest or prohibited pecuniary interest involv-  
15 ing the members of the board of trustees of the trust fund shall be governed  
16 solely by the conflict of interest provisions of the Idaho nonprofit corpo-  
17 ration act as set forth in section ~~30-3-81~~ 30-30-619, Idaho Code.

18 SECTION 28. That Section 41-6104, Idaho Code, be, and the same is hereby  
19 amended to read as follows:

20 41-6104. ESTABLISHMENT OF THE EXCHANGE AND THE BOARD. (1) There is  
21 hereby created an independent body corporate and politic to be known as the  
22 "Idaho Health Insurance Exchange." Said exchange may exercise the authority  
23 and powers conferred by this chapter and such exercise shall be deemed and  
24 held to be the performance of an essential public function.

25 (2) The exchange created by this chapter is not a state agency, shall  
26 not be subject to the purchasing statutes and rules of the state of Idaho or  
27 subdivisions of the state including, but not limited to, chapters 28 and 57,  
28 title 67, Idaho Code, and shall operate subject to the supervision and con-  
29 trol of its board.

30 (3) The board shall consist of nineteen (19) total members, with seven-  
31 teen (17) voting members. Subject to the provisions of this section, members  
32 of the board shall collectively offer expertise, knowledge and experience in  
33 health benefits administration, health care finance, health plan purchas-  
34 ing, health care delivery system administration, public health and health  
35 policy issues related to small employer and individual markets and the unin-  
36 sured. A majority of the board shall not collectively represent health car-  
37 riers and producers. The fourteen (14) voting members who are not members  
38 of the legislature shall be appointed to the board by, and serve at the plea-  
39 sure of, the governor. The members appointed to the board by the governor  
40 shall be subject to confirmation by the senate, provided that, upon appoint-  
41 ment, board members shall have full authority to exercise all the rights and  
42 duties, and participate in all decisions, required of the position. The sev-  
43 enteen (17) voting members of the board shall be appointed as follows:

44 (a) Three (3) members representing different health carriers appointed  
45 by the governor;

46 (b) Two (2) members representing producers appointed by the governor;

47 (c) Three (3) members representing individual consumer interests ap-  
48 pointed by the governor;

1 (d) Four (4) members representing small employer business interests  
2 appointed by the governor with, at the time of appointment:

3 (i) One (1) member representing small employer business inter-  
4 ests employing between one (1) and ten (10) employees;

5 (ii) One (1) member representing small employer business inter-  
6 ests employing between eleven (11) and twenty-five (25) employ-  
7 ees;

8 (iii) One (1) member representing small employer business inter-  
9 ests employing twenty-six (26) or more employees; and

10 (iv) One (1) at-large member;

11 (e) Two (2) members representing health care providers appointed by the  
12 governor;

13 (f) One (1) member of the house of representatives appointed by the  
14 speaker of the house;

15 (g) One (1) member of the senate appointed by the president pro tempore;  
16 and

17 (h) One (1) member of the legislature representing the minority party  
18 in the legislature appointed by minority leadership.

19 The director or his designee and the director of the state department of  
20 health and welfare or his designee shall each serve as ex officio nonvoting  
21 members of the board.

22 (4) The fourteen (14) board members appointed by the governor shall  
23 each serve a term of four (4) years or until a successor is appointed. A board  
24 member may be appointed by the governor to serve subsequent terms. A vacancy  
25 in a member's position on the board shall be filled in the same manner as the  
26 original appointment.

27 (5) Whenever a member of the board has a conflict of interest on a matter  
28 that is before the board, the member shall fully disclose it to the board,  
29 abstain from any vote on the matter and shall also comply with any additional  
30 requirements established pursuant to the plan of operation under section  
31 41-6105, Idaho Code.

32 (6) Neither members of the board nor any other person working or per-  
33 forming services for the exchange shall be:

34 (a) Considered public officials, employees or agents of the state of  
35 Idaho by virtue of their service on the board or performance of services  
36 for the exchange; or

37 (b) Eligible for or entitled to benefits from the public employee re-  
38 tirement system of Idaho.

39 (7) Nothing in this chapter shall prevent a member of the board who is  
40 otherwise a current or former state employee from receiving his usual state  
41 compensation and benefits while serving on the board.

42 (8) All meetings of the board shall be held in accordance with the open  
43 meetings law as provided for in chapter 23, title 674, Idaho Code, shall be  
44 held in an open public forum, and every reasonable effort shall be made to  
45 make such meetings televised or streamed in video and audio format.

46 (9) The board shall contract for an annual audit of the exchange by an  
47 independent third party and shall accept requests for proposal to bid on such  
48 contract.

49 (10) The board shall develop, adopt and implement procurement policies  
50 and guidelines.

1 (11) Premium rates charged by a health carrier for a health benefit plan  
2 or stand-alone dental plan offered in the exchange shall be based upon Idaho  
3 rating areas established by the director consistent with 42 U.S.C. section  
4 300gg, et seq.

5 SECTION 29. That Section 50-2913, Idaho Code, be, and the same is hereby  
6 amended to read as follows:

7 50-2913. URBAN RENEWAL AGENCY PLANS -- REPORTING INFORMATION REQUIRED  
8 -- PENALTIES FOR FAILURE TO REPORT. In addition to the provisions applicable  
9 to urban renewal agencies in chapters 20 and 29, title 50, Idaho Code, the  
10 provisions of this section shall also apply to urban renewal agencies. For  
11 purposes of this section, "urban renewal agency" shall have the same meaning  
12 as provided in chapters 20 and 29, title 50, Idaho Code.

13 (1) (a) There is hereby established a central registry with the state  
14 tax commission. The registry shall serve as the unified location for  
15 the reporting of and access to administrative and financial information  
16 of urban renewal plans in this state. To establish a complete list of  
17 all urban renewal plans of urban renewal agencies operating in Idaho, on  
18 the effective date of this act and so that the registry established will  
19 be comprehensive, every urban renewal agency shall register with the  
20 state registry. For calendar year 2017, the submission of information  
21 required by subsection (2) of this section shall occur prior to March 1,  
22 2017, and shall be in the form and format required by the state tax com-  
23 mission. In addition to the information required by this section for  
24 the March 1, 2017, filing deadline, the entity shall report the date of  
25 its last adoption or amendment or modification of an urban renewal plan.  
26 The registry listing will be available on the state tax commission web-  
27 site by July 1, 2017.

28 (b) The state tax commission shall notify each urban renewal agency of  
29 the requirements of this section.

30 (c) After March 1, and on or before December 1 of each year, the county  
31 clerk of each county shall submit a list to the state tax commission of  
32 all urban renewal agencies within the county.

33 (2) On or before December 1 of each year, every urban renewal agency  
34 shall submit to the central registry the following information each urban  
35 renewal plan adopted or modified pursuant to sections 50-2008 and 50-2905,  
36 Idaho Code, and any modifications or amendments to those plans.

37 (a) Within five (5) days of submitting to the central registry the in-  
38 formation required by this section, the urban renewal agency shall no-  
39 tify the agency's appointing authority, if the entity has an appointing  
40 authority, that it has submitted such information.

41 (b) If any information provided by an entity as required by this section  
42 changes during the year, the entity shall update its information on the  
43 registry within thirty (30) days of any such change.

44 (3) Notification and penalties.

45 (a) If an urban renewal agency fails to submit information required by  
46 this section or submits noncompliant information required by this sec-  
47 tion, the state tax commission shall notify the entity immediately af-  
48 ter the due date of the information that either the information was not  
49 submitted in a timely manner or the information submitted was noncom-

1 pliant. The urban renewal agency shall then have thirty (30) days from  
2 the date of notice to submit the information or notify the state tax com-  
3 mission that it will comply by a time certain.

4 (b) No later than September 1 of any year, the state tax commission  
5 shall notify the appropriate board of county commissioners and city  
6 council of the entity's failure to comply with the provisions of this  
7 section. Upon receipt of such notification, the board of county commis-  
8 sioners shall place a public notice in a newspaper of general circula-  
9 tion in the county indicating that the entity is noncompliant with the  
10 legal reporting requirements of this section. The county commissioners  
11 shall assess to the entity the cost of the public notice. Such costs may  
12 be deducted from any distributions of tax increment financing of the  
13 urban renewal agency. For any noncomplying urban renewal agency, the  
14 state tax commission shall notify the board of county commissioners and  
15 city council of the compliance status of such entity by September 1 of  
16 each year until the entity is in compliance.

17 (c) An urban renewal agency that fails to comply with this section shall  
18 have any property tax revenue that exceeds the amount received in the  
19 immediate prior tax year distributed to the taxing districts located in  
20 or overlapping any revenue allocation area within that urban renewal  
21 district. Said distribution shall be based on each taxing district's  
22 proportionate share of the increment value in the current tax year mul-  
23 tiplied by the taxing district's current levy rate, reduced proportion-  
24 ately to match the excess to be so apportioned. Any money so received  
25 by any taxing district shall be treated as property tax revenue for the  
26 purposes of the limitation provided by section 63-802, Idaho Code.

27 (d) In addition to any other penalty provided in this section, in any  
28 failure to comply with this section, the state tax commission shall  
29 withhold the annual distribution of sales tax distribution pursuant to  
30 section 63-3638(13), Idaho Code, for any noncomplying urban renewal  
31 agency. The state tax commission shall withhold and retain such money  
32 in a reserve account until an urban renewal agency has complied with  
33 the provisions of this section, at which point the state tax commission  
34 shall pay any money owed to an urban renewal agency that was previously  
35 in violation of this section to the urban renewal agency.

36 (e) For any urban renewal agency, upon notification to the board of  
37 county commissioners from the state tax commission of noncompliance by  
38 such entity, the board of county commissioners shall convene to deter-  
39 mine appropriate compliance measures including, but not limited to, the  
40 following:

41 (i) Require a meeting of the board of county commissioners and the  
42 urban renewal agency's governing body wherein the board of county  
43 commissioners shall require compliance of this section by the en-  
44 tity; and

45 (ii) Assess a noncompliance fee on the noncomplying urban renewal  
46 agency. Such fee shall not exceed five thousand dollars (\$5,000).  
47 Such fees and costs may be deducted from any distributions of the  
48 tax increment financing. Any fee collected shall be deposited  
49 into the county's current expense fund.



1           (54) The provisions of this section shall have no impact or effect upon  
 2 reporting requirements for local governing entities relating to the state  
 3 tax commission. The state tax commission may allow compliance with this sec-  
 4 tion by the posting of links to an urban renewal agency's website for the  
 5 posting of plans.

6           SECTION 30. That Section 55-115, Idaho Code, be, and the same is hereby  
 7 amended to read as follows:

8           55-115. HOMEOWNER'S ASSOCIATION -- PROHIBITED CONDUCT. (1) As used in  
 9 this section:

10           (a) "Homeowner's association" shall have the same meaning as in section  
 11 45-810(6), Idaho Code.

12           (b) "Board" means the entity that has the duty of governing the associ-  
 13 ation that may be referred to as the board of directors, executive board  
 14 or any such similar name.

15           (c) "Member" or "membership" means any person or entity owning or pos-  
 16 sessed an interest in residential real property or lot within the phys-  
 17 ical boundaries of an established homeowner's association.

18           (2) No fine may be imposed for a violation of the covenants and restric-  
 19 tions pursuant to the rules or regulations of the homeowner's association  
 20 unless the authority to impose a fine is clearly set forth in the covenants  
 21 and restrictions and:

22           (a) A majority vote by the board shall be required prior to imposing any  
 23 fine on a member for a violation of any covenants and restrictions pur-  
 24 suant to the rules and regulations of the homeowner's association.

25           (b) Written notice by personal service or certified mail of the meeting  
 26 during which such vote is to be taken shall be made to the member at least  
 27 thirty (30) days prior to the meeting.

28           (c) In the event the member begins resolving the violation prior to the  
 29 meeting, no fine shall be imposed ~~so~~ as long as the member continues to  
 30 address the violation in good faith until fully resolved.

31           (d) No portion of any fine may be used to increase the remuneration of  
 32 any board member or agent of the board.

33           (e) No part of this section shall affect any statute, rule, covenant,  
 34 bylaw, provision or clause that may allow for the recovery of attorney's  
 35 fees.

36           (3) No homeowner's association may add, amend or enforce any covenant,  
 37 condition or restriction in such a way that limits or prohibits the rental,  
 38 for any amount of time, of any property, land or structure thereon within  
 39 the jurisdiction of the homeowner's association, unless expressly agreed to  
 40 in writing at the time of such addition or amendment by the owner of the af-  
 41 fected property. Nothing in this section shall be construed to prevent the  
 42 enforcement of valid covenants, conditions or restrictions limiting a prop-  
 43 erty owner's right to transfer his interest in land or the structures thereon  
 44 ~~so~~ as long as that covenant, condition or restriction applied to the property  
 45 at the time the homeowner acquired his interest in the property.

46           (34) Attorney's fees and costs shall not accrue and shall not be as-  
 47 sessed or collected by the homeowner's association until the homeowner's as-  
 48 sociation has complied with the requirements of subsection (2) of this sec-  
 49 tion and the member has failed to address the violation as prescribed in sub-

1 section (2) (c) of this section. A court of competent jurisdiction may de-  
 2 termine the reasonableness of attorney's fees and costs assessed against a  
 3 member. In an action to determine the reasonableness of attorney's fees and  
 4 costs assessed by the homeowner's association against a member, the court  
 5 may award reasonable attorney's fees and costs to the prevailing party.

6 SECTION 31. That Section 61-313, Idaho Code, be, and the same is hereby  
 7 amended to read as follows:

8 61-313. SCHEDULE CHARGES ONLY PERMITTED. Except as in this act other-  
 9 wise provided, no public utility shall charge, demand, collect or receive a  
 10 greater or ~~less~~ lesser or different compensation from any product or commod-  
 11 ity furnished or to be furnished or for any service rendered or to be ren-  
 12 dered, than the rates, tolls, rentals and charges applicable to such product  
 13 or commodity or service as specified in its schedules on file and in effect  
 14 at the time, nor shall any such public utility refund or remit, directly or  
 15 indirectly, in any manner or by any device, any portion of the rates, tolls,  
 16 rentals and charges so specified nor extended to any corporation or person  
 17 any form of contract or agreement or any rule or regulation of any facility  
 18 or privilege except such as are specified in such schedules and as are reg-  
 19 ularly and uniformly extended to all corporations and persons: provided,  
 20 that messages by telephone or cable, subject to the provisions of this act,  
 21 may be classified by the utility into day, night, repeated, unrepeated, let-  
 22 ter, commercial, press, government and such other classes of messages: pro-  
 23 vided further, that nothing in this chapter shall be construed to prevent  
 24 telephone and cable companies from entering into contract with common carri-  
 25 ers for the exchange of service at rates common to all common carriers of like  
 26 class.

27 SECTION 32. That Section 63-602D, Idaho Code, be, and the same is hereby  
 28 amended to read as follows:

29 63-602D. PROPERTY EXEMPT FROM TAXATION -- CERTAIN HOSPITALS. (1) For  
 30 the purposes of this section, "hospital" means a hospital as defined by chap-  
 31 ter 13, title 39, Idaho Code, and includes one (1) or more acute care, out-  
 32 reach, satellite, outpatient, ancillary or support facilities of such hospi-  
 33 tal whether or not any such individual facility would independently sat-  
 34 isfy the definition of hospital.

35 (2) The following property is exempt from taxation: the real property  
 36 owned and personal property, including medical equipment, owned or leased by  
 37 a hospital corporation or a county hospital or hospital district ~~which~~ that  
 38 is operated as a hospital and the necessary grounds used therewith.

39 (3) If real property, not currently exempt from taxation, is being pre-  
 40 pared for use as a hospital, the value of the bare land only shall be taxed  
 41 while the property is being prepared for use as a hospital. All improvements  
 42 to and construction on the real property, while it is being prepared for use  
 43 as a hospital, shall be exempt from taxation. For purposes of this section,  
 44 property is being "prepared for use as a hospital" if the corporation has be-  
 45 gun construction of a hospital project as evidenced by obtaining a building  
 46 permit that will, on completion, qualify such property for an exemption and,  
 47 as of the assessment date, has not abandoned the construction. Construc-

1 tion shall not be considered abandoned if it has been delayed by causes and  
 2 circumstances beyond the corporation's control or when delay is caused by  
 3 an event that has occurred in the absence of the corporation's willful ne-  
 4 glect or intentional acts, omissions or practices engaged in by the corpora-  
 5 tion for the purpose of impeding progress. Notwithstanding the foregoing,  
 6 in no event shall improvements to property that is being prepared for use as  
 7 a hospital qualify for an exemption from ad valorem property tax under this  
 8 subsection for more than three (3) consecutive tax years; upon completion of  
 9 construction and obtaining a certificate of occupancy, the entire real prop-  
 10 erty shall be exempt from taxation if the corporation meets the requirements  
 11 of subsection (4) of this section; provided, property already exempt or el-  
 12 igible for exemption shall not be affected by the provisions of this subsec-  
 13 tion.

14 (4) The corporation must show that the hospital:

15 (a) Is organized as a nonprofit corporation pursuant to chapter 30, ti-  
 16 tle 30, Idaho Code, or pursuant to equivalent laws in its state of incor-  
 17 poration;

18 (b) Has received an exemption from taxation from the ~~I~~nternal ~~R~~evenue  
 19 ~~S~~ervice pursuant to section 501(c) (3) of the Internal Revenue Code.

20 (5) The board of equalization shall grant an exemption to the property  
 21 of: (a) a county hospital; (b) a hospital district; or (c) any hospital cor-  
 22 poration meeting the criteria provided in subsection (4) of this section.

23 (6) If a hospital corporation uses property for business purposes from  
 24 which a revenue is derived ~~which that~~ is not directly related to the hospital  
 25 corporation's exempt purposes, then the property shall be assessed and taxed  
 26 as any other property. If property is used in part by a hospital corporation  
 27 for such purposes, then the assessor shall determine the value of the entire  
 28 property and the value of the part used that is not directly related to the  
 29 hospital corporation's exempt purposes. If the value of the part ~~which that~~  
 30 is not directly related to the hospital corporation's exempt purposes is de-  
 31 termined to be three percent (3%) or less than the value of the entire prop-  
 32 erty, then the property shall remain exempt. If the value of the part ~~which~~  
 33 ~~that~~ is not directly related to the hospital corporation's exempt purposes  
 34 is determined to be more than three percent (3%) of the value of the entire  
 35 property, then the assessor shall assess the proportionate part of the prop-  
 36 erty, including the value of the real estate used for such purposes.

37 (7) A hospital corporation issued an exemption from property taxation  
 38 pursuant to this section and operating a hospital having one hundred fifty  
 39 (150) or more patient beds shall prepare a community benefits report to be  
 40 filed with the board of equalization by December 31 of each year. The report  
 41 shall itemize the hospital's amount of unreimbursed services for the prior  
 42 year (including charity care, bad debt, and underreimbursed care covered  
 43 through government programs); special services and programs the hospital  
 44 provides below its actual cost; donated time, funds, subsidies and in-kind  
 45 services; additions to capital such as physical plant and equipment; and in-  
 46 dication of the process the hospital has used to determine general community  
 47 needs ~~which that~~ coincide with the hospital's mission. The report shall be  
 48 provided as a matter of community information. Neither the submission of  
 49 the report nor the contents shall be a basis for the approval or denial of a  
 50 corporation's property tax exemption.

1 SECTION 33. That Section 63-602GG, Idaho Code, be, and the same is  
2 hereby amended to read as follows:

3 63-602GG. PROPERTY EXEMPT FROM TAXATION -- LOW-INCOME HOUSING OWNED  
4 BY NONPROFIT ORGANIZATIONS. (1) As provided in this section, low-income  
5 housing owned by nonprofit organizations shall be exempt from taxation.

6 (2) In order to qualify as a nonprofit organization under this section,  
7 an organization must demonstrate that:

8 (a) It is organized as a nonprofit corporation pursuant to chapter 30,  
9 title 30, Idaho Code, or pursuant to equivalent laws in the applicable  
10 state of incorporation; and

11 (b) It has received an exemption from taxation from the internal rev-  
12 enue service pursuant to section 501(c)(3) of the Internal Revenue  
13 Code; and

14 (c) No proceeds or tax benefits of the organization or from the low-in-  
15 come housing property owned by the organization shall inure to any indi-  
16 vidual or for-profit entity other than normal employee compensation.

17 (3) In order to qualify for the exemption provided in this section, the  
18 low-income housing property shall meet the following qualifications:

19 (a) Both legal and equitable title to the property is solely owned by  
20 the nonprofit organization seeking the exemption and is managed by the  
21 owner or a related nonprofit organization qualifying for the exemption  
22 set forth in section 63-602C, Idaho Code; and

23 (b) Tenants shall not be evicted based upon their inability to pay for  
24 a period of three (3) months if such inability is due to a catastrophic  
25 event that is not under the tenant's control. For purposes of this sub-  
26 section, "catastrophic event" means a medical condition or injury in  
27 which sudden, serious and unexpected symptoms of illness or injury are  
28 sufficiently severe to render the tenant unable to participate in em-  
29 ployment and such illness or injury has been certified by one (1) or more  
30 licensed physicians and/or psychiatrists or psychologists. The term  
31 "catastrophic event" does not apply to individuals who voluntarily re-  
32 move themselves from the workforce; and

33 (c) Except for a manager's unit, all of the housing units in the low-in-  
34 come housing property are dedicated to low-income housing in the fol-  
35 lowing manner: Fifty-five percent (55%) of the units shall be rented  
36 to those earning sixty percent (60%) or less of the median income for  
37 the county in which the housing is located; twenty percent (20%) of the  
38 units shall be rented to those earning fifty percent (50%) or less of the  
39 median income of the county in which the housing is located; and twenty-  
40 five percent (25%) of the units shall be rented to those earning thirty  
41 percent (30%) or less of the median income for the county in which the  
42 housing is located.

43 (4) The exemption provided in this section shall not apply:

44 (a) If the project is financed after the effective date of this act and  
45 applicable law permits the payment of property taxes with federal or  
46 state funds, grants, loans or subsidies; or

47 (b) If the property is receiving federal project-based assistance,  
48 as provided by 42 U.S.C. sections 1437f(d)(2), 1437f(f)(6) and  
49 1437f(o)(13); or

1 (c) To any property used by a taxpayer to qualify for tax credits under  
 2 the provisions of 26 U.S.C. chapter 42 or any successor programs until  
 3 such time as the property is solely owned by a nonprofit organization as  
 4 defined in this section and is no longer utilized to receive federal tax  
 5 credits.

6 (5) Notwithstanding any other provision of this section, a low-income  
 7 housing property shall be exempt from taxation due to undue hardship if:

8 (a) The property was financed prior to the effective date of this act;  
 9 and

10 (b) Such financing was dependent upon the tax-exempt status of the  
 11 property; and

12 (c) The law does not allow additional federal or state revenues to be  
 13 available for the payment of property taxes.

14 (6) Nothing in this section shall affect the qualification of proper-  
 15 ties for tax-exempt status under other provisions of title 63, Idaho Code.

16 SECTION 34. That Section 67-7702, Idaho Code, be, and the same is hereby  
 17 amended to read as follows:

18 67-7702. DEFINITIONS. As used in this chapter:

19 (1) "Bingo" means the traditional game of chance played for a prize de-  
 20 termined prior to the start of the game.

21 (a) Upon approval by the bingo-raffle advisory board, a licensee may  
 22 offer bingo games in which players are allowed to select their own num-  
 23 bers if the cards used to conduct the games have controls that provide an  
 24 audit trail adequate to determine all winning number combinations.

25 (b) Card-minding devices are prohibited. Autodaubing features are  
 26 prohibited.

27 (c) Bingo shall not include "instant bingo," which is a game of chance  
 28 played by the selection of one (1) or more prepackaged bingo cards, with  
 29 the winner determined by the appearance of a preprinted winning desig-  
 30 nation on the bingo card.

31 (2) "Bingo-raffle advisory board" means a board of six (6) persons  
 32 chosen by the governor to make advisory recommendations regarding bingo and  
 33 raffle operations and regulation in Idaho.

34 (3) "Charitable organization" means an organization that has been in  
 35 continuous existence in the county of operation of the charitable bingo game  
 36 or raffle for at least one (1) year, that conducts charitable activities, and  
 37 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),  
 38 501(c)(8), 501(c)(10), 501(c)(19) or 501(d) of the Internal Revenue Code  
 39 and is exempt from income taxation under title 63, Idaho Code, as a bona fide  
 40 nonprofit charitable, civic, religious, fraternal, patriotic or veterans  
 41 organization or as a nonprofit volunteer fire department, or as a nonprofit  
 42 volunteer rescue squad, or as a nonprofit volunteer educational booster  
 43 group, parent-teacher organization or association. If the organization has  
 44 local branches or chapters, the term "charitable organization" means the  
 45 local branch or chapter operating the bingo or raffle game.

46 (4) "Commission" means the Idaho state lottery commission as defined in  
 47 section 67-7404, Idaho Code.

48 (5) "Duck race" means a charitable raffle played by releasing numbered,  
 49 inanimate toys (ducks) into a body of moving water. A person who has been as-

1 signed the same number as the first duck to cross a predetermined point in the  
2 water (the finish line) is the winner. Other prizes may be awarded on the ba-  
3 sis of the order in which the ducks cross the finish line. With the exception  
4 of determining "net proceeds," all restrictions and requirements applicable  
5 to the conduct of charitable raffles in this chapter shall also apply to the  
6 conduct of duck races.

7 (6) "Electronic bingo card" or "face" means an electronic facsimile of  
8 a bingo card or face, from a permutation of bingo cards formulated by a manu-  
9 facturer licensed in Idaho, which is stored and/or displayed in a bingo card-  
10 monitoring device. An electronic bingo card or face is deemed to be a form of  
11 disposable paper bingo card.

12 (7) (a) "Electronic bingo device" means an electronic device used by a  
13 bingo player to monitor bingo cards purchased at the time and place of a  
14 licensed organization's bingo session, ~~and which that~~:

15 (i) Provides a means for bingo players to input numbers announced  
16 by a bingo caller;

17 (ii) Requires the player to manually enter the numbers as they are  
18 announced by a bingo caller;

19 (iii) Compares the numbers entered by the bingo player to the num-  
20 bers contained on bingo cards previously stored in the electronic  
21 database of the device;

22 (iv) Identifies winning bingo patterns; and

23 (v) Signals only the bingo player when a winning bingo pattern is  
24 achieved.

25 (b) "Electronic bingo device" does not mean or include any device into  
26 which coins, currency, or tokens are inserted to activate play, or any  
27 device ~~which that~~ is interfaced with or connected to any host system  
28 which can transmit or receive any ball call information, site system or  
29 any other type of bingo equipment once the device has been activated for  
30 use by the bingo player.

31 (8) "Gross revenues" means all moneys paid by players during a bingo  
32 game or session for the playing of bingo or raffle events and does not include  
33 money paid for concessions; provided that the expenses of renting electronic  
34 bingo devices from a licensed vendor and the fees collected from players for  
35 the use of electronic bingo devices must be reported separately on the organ-  
36 ization's annual bingo report and must be netted for purposes of determining  
37 gross revenues as follows: only fees collected from players in excess of the  
38 rental charges paid to licensed vendors will be considered to be a part of  
39 gross revenues; ~~and~~ and if the costs of renting electronic bingo devices from a  
40 licensed vendor exceed the fees collected from players for use of electronic  
41 bingo devices, the difference will be considered an administrative expense  
42 for purposes of section 67-7709(1) (d), Idaho Code.

43 (9) "Host system" means the computer hardware, software and peripheral  
44 equipment of a licensed manufacturer ~~which that~~ is used to generate and down-  
45 load electronic bingo cards to a licensed organization's site system, ~~and~~  
46 ~~which that~~ monitors sales and other activities of a site system.

47 (10) "Nonprofit organization" means an organization incorporated under  
48 chapter 30, title 30, Idaho Code.

49 (11) "Organization" means a charitable organization or a nonprofit or-  
50 ganization.

1 (12) "Person" shall be construed to mean and include an individual, as-  
 2 sociation, corporation, club, trust, estate, society, company, joint stock  
 3 company, receiver, trustee, assignee, referee or any other person acting  
 4 in a fiduciary or representative capacity, whether appointed by a court or  
 5 otherwise, and any combination of individuals. "Person" shall also be con-  
 6 strued to mean and include departments, commissions, agencies and instru-  
 7 mentalities of the state of Idaho, including counties and municipalities and  
 8 agencies or instrumentalities thereof.

9 (13) "Raffle" means a game in which the prize is won by random drawing of  
 10 the name or number of one (1) or more persons purchasing chances.

11 (14) "Session" means a period of time not to exceed eight (8) hours in  
 12 any one (1) day in which players are allowed to participate in bingo games  
 13 operated by a charitable or nonprofit organization.

14 (15) "Site system" means the computer hardware, software and peripheral  
 15 equipment used by a licensed organization at the site of its bingo session  
 16 ~~which that~~ provides electronic bingo cards or bingo card monitoring devices  
 17 to players, and ~~which that~~ receipts the sale or rental of such cards and de-  
 18 vices and generates reports relative to such sales or rentals.

19 (16) "Vendor" means an applicant, licensee or manufacturer, distribu-  
 20 tor or supplier, licensed or unlicensed, that furnishes or supplies bingo or  
 21 raffle equipment, disposable or nondisposable cards, and any and all related  
 22 gaming equipment.

23 SECTION 35. That Section 67-7711, Idaho Code, be, and the same is hereby  
 24 amended to read as follows:

25 67-7711. LICENSING PROCEDURE. (1) Any charitable or nonprofit organ-  
 26 ization not exempt pursuant to section 67-7713, Idaho Code, desiring to op-  
 27 erate bingo sessions or games or charitable raffles shall make application  
 28 for a license to the state lottery. The state lottery shall review the li-  
 29 cense application and shall approve or deny the issuing of a license within  
 30 fifteen (15) calendar days of receipt of the license application. The state  
 31 lottery may deny the application if it determines that the applicant has not  
 32 met requirements for an application imposed in this chapter and rules pro-  
 33 mulgated pursuant to this chapter or upon any ground for which an application  
 34 for renewal of a license could be denied or for which an existing licensee's  
 35 license could be revoked or suspended. Whenever an application is denied,  
 36 it shall be returned to the applicant by the state lottery with specific rea-  
 37 sons for the denial. When a license application is approved by the state lot-  
 38 tery, the state lottery shall issue a license to the applicant. No person or  
 39 charitable or nonprofit organization, except those exempt pursuant to sec-  
 40 tion 67-7713, Idaho Code, shall operate or conduct a bingo session or game  
 41 or charitable raffle until it has received a license from the state lottery.  
 42 The license shall expire one (1) year after the date it was issued.

43 (2) Each application and renewal application shall contain the follow-  
 44 ing information:

45 (a) The name, address, date of birth, driver's license number and so-  
 46 cial security number of the applicant and, if the applicant is a corpo-  
 47 ration, association or other similar legal entity, the name, home ad-  
 48 dress, date of birth, driver's license number and social security num-  
 49 ber of each of the officers of the organization, as well as the name and

1 address of the directors, or other persons similarly situated, of the  
2 organization;

3 (b) The name, home address, date of birth, driver's license number and  
4 social security number of each ~~of the~~ person or persons responsible for  
5 managing the bingo session or game or raffle;

6 (c) (i) In the case of charitable organizations, a copy of the applica-  
7 tion for recognition of exemptions and a determination letter from  
8 the internal revenue service that indicates ~~that~~ the organization  
9 is a charitable organization and ~~stating~~ states the section under  
10 which that exemption is granted, except that if the organization  
11 is a state or local branch, lodge, post or chapter of a national or-  
12 ganization, a copy of the determination letter of the national or-  
13 ganization shall satisfy this requirement; and

14 (ii) In the case of incorporated nonprofit organizations, a copy  
15 of a certificate of existence issued by the secretary of state pur-  
16 suant to chapter 30, title 30, Idaho Code, establishing the organ-  
17 ization's good standing in the state.

18 (d) The location at which the applicant will conduct the bingo session  
19 or games or drawings for the raffles.

20 (3) The operation of bingo sessions or games or charitable raffles  
21 shall be the direct responsibility of, and controlled by, the governing  
22 body of the organization and the members of the governing body shall be held  
23 responsible for the conduct of the bingo sessions or games or raffles. No  
24 directors or officers of an organization or persons related to them either  
25 by marriage or blood within the second degree shall receive any compensation  
26 derived from the proceeds of a bingo session or raffle regulated under the  
27 provisions of this chapter. An organization shall not contract with any per-  
28 son for the purpose of conducting a bingo session or providing bingo services  
29 or conducting a raffle on the organization's behalf, provided that this  
30 prohibition does not prevent a bingo organization from hiring employees and  
31 paying wages as provided in section 67-7709(1) (d) (ii), Idaho Code. However,  
32 if the state lottery commission has entered into an agreement or contract  
33 with another state for the operation or promotion of joint bingo sessions,  
34 the charitable or nonprofit organization may participate in that contract or  
35 agreement.

36 (4) Different chapters of an organization may apply for and share one  
37 (1) license to conduct raffles ~~so~~ as long as the information required in sub-  
38 section (2) of this section is provided to the lottery prior to the issuance  
39 of the license.

40 (5) The organization may apply for the license to coincide with the or-  
41 ganization's fiscal year.

42 SECTION 36. That Section 67-8903, Idaho Code, be, and the same is hereby  
43 amended to read as follows:

44 67-8903. DEFINITIONS. When used in this chapter, the following terms  
45 shall have the following meanings:

46 (1) "Authority" means the Idaho energy resources authority created  
47 pursuant to section 67-8904, Idaho Code.

48 (2) "Board" means the board of directors of the authority.



1 (3) "Bonds" means any bonds, notes, certificates or other obligations  
2 or evidences of indebtedness issued by the authority.

3 (4) "Commission" means the Idaho public utilities commission created  
4 pursuant to section 61-201, Idaho Code.

5 (5) "Electric cooperative" means a cooperative corporation or associa-  
6 tion ~~which that~~ is:

7 (a) Organized under the provisions of section 501(c) (12) or 1381 of the  
8 Internal Revenue Code;

9 (b) ~~Is a~~An Idaho nonprofit corporation pursuant to chapter 30, title  
10 30, Idaho Code; and

11 (c) ~~Is a~~An operating entity or successor entity thereof ~~which that~~ owns  
12 facilities and provides electric service to customers in Idaho as of the  
13 effective date of this chapter.

14 (6) "Facility" means any facility necessary, used or useful in connec-  
15 tion with the generation, transmission or distribution of electric power and  
16 energy and any renewable energy generation project, in each case including,  
17 but not limited to, all real and personal property, fuel supplies and trans-  
18 portation facilities, pollution control facilities, and all equipment and  
19 improvements necessary or desirable in connection with a facility. "Facil-  
20 ity" shall include facilities owned in whole or in part by the authority or  
21 a participating utility, including undivided ownership interests in facil-  
22 ities, leasehold interests in facilities and other estates, but excludes  
23 a generating facility that sells any portion of its output as a qualifying  
24 facility to a participating utility under provisions of the public utility  
25 regulatory policies act of 1978, 16 U.S.C. section 2601 et seq.

26 (7) "Independent power producer" means any public or private corpora-  
27 tion ~~which that~~ is not itself a participating utility, but which may be an af-  
28 filiate of a participating utility, that develops any renewable energy gen-  
29 eration project undertaken by the authority pursuant to this chapter.

30 (8) "Participating utility" means, with respect to any facilities un-  
31 dertaken by the authority pursuant to this chapter, any public or private  
32 corporation, electric cooperative or other cooperative corporation or asso-  
33 ciation, municipal corporation, political subdivision of this state or an-  
34 other state, state or federal agency, joint operating entity or other entity  
35 that:

36 (a) Owns and operates an electric utility system that provides elec-  
37 tric services to consumers of electricity located in an existing ser-  
38 vice area within the boundaries of this state;

39 (b) Provides electric generation, power supply, transmission and/or  
40 ancillary and related services at wholesale to one (1) or more partic-  
41 ipating utilities described in paragraph (a) of this subsection; or

42 (c) Is organized or operates as a regional transmission organization  
43 covering all or any part of the state of Idaho and one (1) or more other  
44 states.

45 (9) "Renewable energy" means a source of energy that occurs naturally,  
46 is regenerated naturally or uses as a fuel source, a waste product or byprod-  
47 uct from a manufacturing process including, but not limited to, open or  
48 closed-loop biomass, fuel cells, geothermal energy, waste heat, cogenera-  
49 tion, solar energy, waterpower and wind.

1 (10) "Renewable energy generation project" means an electric generat-  
2 ing facility or system that uses renewable energy as its primary source of  
3 energy to generate electricity.

4 (11) "Revenues" means all receipts, purchase payments, loan repay-  
5 ments, lease payments, rents, fees and charges, and all other income or  
6 receipts derived by the authority from a participating utility.

7 SECTION 37. That Section 74-107, Idaho Code, be, and the same is hereby  
8 amended to read as follows:

9 74-107. RECORDS EXEMPT FROM DISCLOSURE -- TRADE SECRETS, PRODUCTION  
10 RECORDS, APPRAISALS, BIDS, PROPRIETARY INFORMATION. The following records  
11 are exempt from disclosure:

12 (1) Trade secrets including those contained in response to public  
13 agency or independent public body corporate and politic requests for pro-  
14 posal, requests for clarification, requests for information and similar  
15 requests. "Trade secrets" as used in this section means information, in-  
16 cluding a formula, pattern, compilation, program, computer program, device,  
17 method, technique, process, or unpublished or in-progress research that:

18 (a) Derives independent economic value, actual or potential, from not  
19 being generally known to, and not being readily ascertainable by proper  
20 means by other persons who can obtain economic value from its disclosure  
21 or use; and

22 (b) Is the subject of efforts that are reasonable under the circum-  
23 stances to maintain its secrecy.

24 (2) Production records, housing production, rental and financing  
25 records, sale or purchase records, catch records, mortgage portfolio loan  
26 documents, or similar business records of a private concern or enterprise  
27 required by law to be submitted to or inspected by a public agency or sub-  
28 mitted to or otherwise obtained by an independent public body corporate and  
29 politic. Nothing in this subsection shall limit the use which can be made  
30 of such information for regulatory purposes or its admissibility in any en-  
31 forcement proceeding.

32 (3) Records relating to the appraisal of real property, timber or min-  
33 eral rights prior to its acquisition, sale or lease by a public agency or in-  
34 dependent public body corporate and politic.

35 (4) Any estimate prepared by a public agency or independent public body  
36 corporate and politic that details the cost of a public project until such  
37 time as disclosed or bids are opened, or upon award of the contract for con-  
38 struction of the public project.

39 (5) Examination, operating or condition reports and all documents re-  
40 lating thereto, prepared by or supplied to any public agency or independent  
41 public body corporate and politic responsible for the regulation or supervi-  
42 sion of financial institutions including, but not limited to, banks, savings  
43 and loan associations, regulated lenders, business and industrial develop-  
44 ment corporations, credit unions, and insurance companies, or for the regu-  
45 lation or supervision of the issuance of securities.

46 (6) Records gathered by a local agency or the Idaho department of com-  
47 merce, as described in chapter 47, title 67, Idaho Code, for the specific  
48 purpose of assisting a person to locate, maintain, invest in, or expand busi-  
49 ness operations in the state of Idaho.

1 (7) Shipping and marketing records of commodity commissions used to  
2 evaluate marketing and advertising strategies and the names and addresses of  
3 growers and shippers maintained by commodity commissions.

4 (8) Financial statements and business information and reports submit-  
5 ted by a legal entity to a port district organized under title 70, Idaho Code,  
6 in connection with a business agreement, or with a development proposal or  
7 with a financing application for any industrial, manufacturing, or other  
8 business activity within a port district.

9 (9) Names and addresses of seed companies, seed crop growers, seed crop  
10 consignees, locations of seed crop fields, variety name and acreage by vari-  
11 ety. Upon the request of the owner of the proprietary variety, this infor-  
12 mation shall be released to the owner. Provided however, that if a seed crop  
13 has been identified as diseased or has been otherwise identified by the Idaho  
14 department of agriculture, other state departments of agriculture, or the  
15 United States department of agriculture to represent a threat to that par-  
16 ticular seed or commercial crop industry or to individual growers, infor-  
17 mation as to test results, location, acreage involved and disease symptoms  
18 of that particular seed crop, for that growing season, shall be available  
19 for public inspection and copying. This exemption shall not supersede the  
20 provisions of section 22-436, Idaho Code, nor shall this exemption apply to  
21 information regarding specific property locations subject to an open burn-  
22 ing of crop residue pursuant to section 39-114, Idaho Code, names of persons  
23 responsible for the open burn, acreage and crop type to be burned, and time  
24 frames for burning.

25 (10) Information obtained from books, records and accounts required in  
26 chapter 47, title 22, Idaho Code, to be maintained by the Idaho oilseed com-  
27 mission and pertaining to the individual production records of oilseed grow-  
28 ers.

29 (11) Records of any risk retention or self-insurance program prepared  
30 in anticipation of litigation or for analysis of or settlement of potential  
31 or actual money damage claims against a public entity and its employees or  
32 against the industrial special indemnity fund except as otherwise discov-  
33 erable under the Idaho or federal rules of civil procedure. These records  
34 shall include, but are not limited to, claims evaluations, investigatory  
35 records, computerized reports of losses, case reserves, internal documents  
36 and correspondence relating thereto. At the time any claim is concluded,  
37 only statistical data and actual amounts paid in settlement shall be deemed  
38 a public record unless otherwise ordered to be sealed by a court of competent  
39 jurisdiction. Provided however, nothing in this subsection is intended to  
40 limit the attorney-client privilege or attorney work product privilege oth-  
41 erwise available to any public agency or independent public body corporate  
42 and politic.

43 (12) Records of laboratory test results provided by or retained by the  
44 Idaho food quality assurance laboratory. Nothing in this subsection shall  
45 limit the use which can be made, or availability of such information if used,  
46 for regulatory purposes or its admissibility in any enforcement proceeding.

47 (13) Reports required to be filed under chapter 13, title 62, Idaho  
48 Code, identifying electrical or natural or manufactured gas consumption  
49 data for an individual customer or account.

1 (14) Voluntarily prepared environmental audits, and voluntary disclo-  
2 sures of information submitted on or before December 31, 1997, to an environ-  
3 mental agency, which are claimed to be confidential business information.

4 (15) Computer programs developed or purchased by or for any public  
5 agency or independent public body corporate and politic for its own use. As  
6 used in this subsection, "computer program" means a series of instructions  
7 or statements which permit the functioning of a computer system in a manner  
8 designed to provide storage, retrieval and manipulation of data from the  
9 computer system, and any associated documentation and source material that  
10 explain how to operate the computer program. Computer program does not in-  
11 clude:

12 (a) The original data including, but not limited to, numbers, text,  
13 voice, graphics and images;

14 (b) Analysis, compilation and other manipulated forms of the original  
15 data produced by use of the program; or

16 (c) The mathematical or statistical formulas that would be used if the  
17 manipulated forms of the original data were to be produced manually.

18 (16) Active investigative records and trademark usage audits of the  
19 Idaho potato commission specifically relating to the enforcement of chapter  
20 12, title 22, Idaho Code, until the commencement of formal proceedings as  
21 provided by rules of the commission; purchase and sales information sub-  
22 mitted to the Idaho potato commission during a trademark usage audit, and  
23 investigation or enforcement proceedings. Inactive investigatory records  
24 shall be disclosed unless the disclosure would violate the standards set  
25 forth in subsection (1) (a) through (f) of section 74-124, Idaho Code. Noth-  
26 ing in this subsection shall limit the use which can be made, or availability  
27 of such information if used, for regulatory purposes or its admissibility in  
28 any enforcement proceeding.

29 (17) All records copied or obtained by the director of the department of  
30 agriculture or his designee as a result of an inspection pursuant to section  
31 25-3806, Idaho Code, except:

32 (a) Records otherwise deemed to be public records not exempt from dis-  
33 closure pursuant to this chapter; and

34 (b) Inspection reports, determinations of compliance or noncompliance  
35 and all other records created by the director or his designee pursuant  
36 to section 25-3806, Idaho Code.

37 (18) All data and information collected by the division of animal indus-  
38 tries or the state brand board pursuant to the provisions of section 25-207B,  
39 Idaho Code, or rules promulgated thereunder.

40 (19) Records disclosed to a county official by the state tax commission  
41 pursuant to subsection (4) (c) of section 63-3029B, Idaho Code.

42 (20) Records, data, information and materials collected, developed,  
43 generated, ascertained or discovered during the course of academic research  
44 at public institutions of higher education if the disclosure of such could  
45 reasonably affect the conduct or outcome of the research, or the ability of  
46 the public institution of higher education to patent or copyright the re-  
47 search or protect intellectual property.

48 (21) Records, data, information and materials collected or utilized  
49 during the course of academic research at public institutions of higher ed-

1 ucation provided by any person or entity other than the public institution  
2 of higher education or a public agency.

3 (22) The exemptions from disclosure provided in subsections (20) and  
4 (21) of this section shall apply only until the academic research is pub-  
5 licly released, copyrighted or patented, or until the academic research  
6 is completed or terminated. At such time, the records, data, information,  
7 and materials shall be subject to public disclosure unless: (a) another  
8 exemption in this chapter applies; (b) such information was provided to the  
9 institution subject to a written agreement of confidentiality; or (c) public  
10 disclosure would pose a danger to persons or property.

11 (23) The exemptions from disclosure provided in subsections (20) and  
12 (21) of this section do not include basic information about a particular  
13 research project that is otherwise subject to public disclosure, such as the  
14 nature of the academic research, the name of the researcher, and the amount  
15 and source of the funding provided for the project.

16 (24) Records of a county assessor, the state tax commission, a county  
17 board of equalization or the state board of tax appeals containing the fol-  
18 lowing information: (i) lists of personal property required to be filed pur-  
19 suant to section 63-302, Idaho Code, and operating statements required to  
20 be filed pursuant to section 63-404, Idaho Code, and (ii) confidential com-  
21 mercial or financial information including trade secrets. Except with re-  
22 spect to lists of personal property required to be filed pursuant to section  
23 63-302, Idaho Code, and the operator statements required to be filed pur-  
24 suant to section 63-404, Idaho Code, it shall be the responsibility of the  
25 taxpayer to give notice of its claim to exemption by stamping or marking each  
26 page or the first page of each portion of documents so claimed. No records  
27 that are exempt pursuant to this subsection shall be disclosed without the  
28 consent of the taxpayer except as follows:

29 (a) To any officer, employee or authorized representative of the state  
30 or the United States, under a continuing claim of confidentiality, as  
31 necessary to carry out the provisions of state or federal law or when  
32 relevant to any proceeding thereunder.

33 (b) In the publication of statistics or reports as long as the statis-  
34 tics or reports do not reasonably lead to the identification of the spe-  
35 cific taxpayer or information submitted by taxpayers exempt pursuant to  
36 this subsection.

37 (c) To the board of tax appeals or the district court as evidence or  
38 otherwise in connection with an appeal of the taxpayer's property tax  
39 assessment, but only if the board or the court, as applicable, has en-  
40 tered a protective order specifying that the taxpayer information may  
41 not be disclosed by any person conducting or participating in the action  
42 or proceeding, except as authorized by the board or the court in accor-  
43 dance with applicable law.

44 (d) Nothing in this subsection shall prevent disclosure of the follow-  
45 ing information:

- 46 (i) Name and mailing address of the property owner;
- 47 (ii) A parcel number;
- 48 (iii) A legal description of real property;
- 49 (iv) The square footage and acreage of real property;
- 50 (v) The assessed value of taxable property;

1 (vi) The tax district and the tax rate; and

2 (vii) The total property tax assessed.

3 (25) Results of laboratory tests which have no known adverse impacts to  
4 human health conducted by the Idaho state department of agriculture animal  
5 health laboratory, related to diagnosis of animal diseases of individual an-  
6 imals or herds, on samples submitted by veterinarians or animal owners un-  
7 less:

8 (a) The laboratory test results indicate the presence of a state or fed-  
9 erally reportable or regulated disease in animals;

10 (b) The release of the test results is required by state or federal law;  
11 or

12 (c) The test result is identified as representing a threat to animal or  
13 human health or to the livestock industry by the Idaho state department  
14 of agriculture or the United States department of agriculture. Nothing  
15 in this subsection shall limit the use which can be made, or availabil-  
16 ity of such information if used, for regulatory purposes or its admis-  
17 sibility in any enforcement proceeding, or the duty of any person to re-  
18 port contagious or infectious diseases as required by state or federal  
19 law.

20 (26) Results of laboratory tests conducted by the Idaho state depart-  
21 ment of agriculture seed laboratory on samples submitted by seed producers  
22 or seed companies. Nothing in this subsection shall limit the use which can  
23 be made, or availability of such information pursuant to the provisions of  
24 subsections (9) and (10) of section 22-418, Idaho Code.

25 (27) For policies that are owned by private persons, and not by a public  
26 agency of the state of Idaho, records of policies, endorsements, affidavits  
27 and any records that discuss policies, endorsements and affidavits that may  
28 be required to be filed with or by a surplus line association pursuant to  
29 chapter 12, title 41, Idaho Code.

30 (28) Individual financial statements of a postsecondary educational  
31 institution or a proprietary school submitted to the state board of educa-  
32 tion, its director or a representative thereof, for the purpose of regis-  
33 tering the postsecondary educational institution or proprietary school pur-  
34 suant to section 33-2402 or 33-2403, Idaho Code, or provided pursuant to an  
35 administrative rule of the board adopted pursuant to such sections.

36 (29) Information submitted ~~to~~ by insurance companies pursuant to sec-  
37 tion 421-612(17), Idaho Code.